



LODI CITY COUNCIL

Carnegie Forum

305 West Pine Street, Lodi

AGENDA - REGULAR MEETING

Date: February 4, 2004

Time: Closed Session 6:00 p.m.
Regular Meeting 7:00 p.m.

For information regarding this Agenda please contact:

Susan J. Blackston

City Clerk

Telephone: (209) 333-6702

NOTE: All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.

C-1 Call to Order / Roll Call

C-2 Announcement of Closed Session

- a) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- b) Actual litigation: Government Code §54956.9(a); one case; Quesada v. City of Lodi et al., Superior Court of California, County of San Joaquin, Stockton Branch, Case No. CV 016631

C-3 Adjourn to Closed Session

NOTE: THE FOLLOWING ITEMS WILL COMMENCE NO SOONER THAN 7:00 P.M.

C-4 Return to Open Session / Disclosure of Action

A. Call to Order / Roll call

B. Invocation – Senior Pastor Jimmy McClelland, New Hope Free Will Baptist Church

C. Pledge of Allegiance – Boy Scout Troop 291

D. Presentations

D-1 Awards – None

D-2 Proclamations – None

D-3 Presentations

- a) Presentation of Certificates of Recognition to participants in the Lodi Breakthrough Project
- b) Presentation by Downtown Lodi Business Partnership to winners of the 2003 Parade of Lights
- c) Presentation regarding Ballot Measure L, *Funding Repairs, Upgrades, and Expansions to San Joaquin Delta College* (CM)

E. Consent Calendar (Reading; comments by the public; Council action)

E-1 Receive Register of Claims in the amount of \$6,954,736.21 (FIN)

E-2 Approve minutes (CLK)

- a) December 17, 2003 (Regular Meeting)
- b) January 7, 2004 (Regular Meeting)
- c) January 16, 2004 (Special Meeting)

E-3 Approve specifications and authorize advertisement for bids for 384 watt-hour meters (EUD)

- E-4 Approve specifications and authorize advertisement for bids for janitorial services for City facilities (PW)
- E-5 Approve specifications and authorize advertisement for bids for a pre-cast concrete Fiber Optic Control building (\$25,000) (EUD)
- E-6 Authorize return of the remaining donated Breakaway Sports items to Dave Vaccarezza (PR)
- E-7 Accept improvements under contract for Police Department Facility, 215 West Elm Street; and notification of Contract Change Orders (PW)
- Res. E-8 Adopt resolution accepting a portion of the improvements in Century Meadows Two, Unit No. 4, Tract No. 3272, and adopt resolution amending Section 2 of Traffic Resolution 97-148 approving the installation of a stop sign at Crown Place and Lexington Drive and yield signs on Victoria Drive at Crown Place (PW)
- Res. E-9 Adopt resolution approving the application to apply for re-certification grant funds to operate the Lodi LOOK after school program at Washington Elementary School under the After School Education and Safety Program through the California Department of Education (PR)

F. Comments by the public on non-agenda items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

G. Public Hearings – None

H. Communications

- H-1 Claims filed against the City of Lodi – None
- H-2 Reports: Boards/Commissions/Task Forces/Committees – None
- H-3 Appointments
 - a) Post for expiring terms on the East Side Improvement Committee (CLK)
 - b) Appointment to the Senior Citizens Commission (CLK)
- H-4 Miscellaneous – None

I. Regular Calendar

- I-1 Discussion and action regarding Phase II budget adjustments (CM)
- I-2 Updates from Mayor Larry Hansen regarding the following issues: (CC)
 - Barger & Wolen audit of Envision Law Group's billings
 - status of recruitment process for new City Attorney
 - progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation
 - legal proceedings relative to the Environmental Abatement Program litigation
- Res. I-3 Adopt resolution appropriating funds to the City Attorney Operating Account for professional services rendered by Kronick Moskovitz Tiedemann & Girard for serving in the capacity of Deputy City Attorney (\$48,000) (CA)
- I-4 Discussion and direction regarding adjusting water and wastewater rates (PW)
- Ord. I-5 Introduce ordinance repealing Lodi Municipal Code Section 13.04.130 and adopting new section (Introduce) establishing low-income discounts for water, sewer, and refuse services (PW)

- J. Ordinances – None**
- K. Comments by the City Council Members on non-agenda items**
- L. Comments by the City Manager on non-agenda items**
- M. Adjournment**

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

Susan J. Blackston
City Clerk



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Presentation Of Certificates Of Recognition To Participants In The Lodi Breakthrough Project

MEETING DATE: February 4, 2004

PREPARED BY: City Clerk

RECOMMENDED ACTION: That Mayor Hansen present Certificates of Recognition to participants in the Lodi Breakthrough Project.

BACKGROUND INFORMATION: The Mayor has been requested to present Certificates of Recognition to participants in the Lodi Breakthrough Project. The Breakthrough Project's vision is, "A community that is free of bigotry, racism, prejudice, and intolerance by celebrating our diversity through communication, education, and responding to acts of intolerance." Recently it sponsored a "Celebrate Diversity Essay Contest 2003" at the high schools. Mr. Art Raab will be at the meeting to speak on this worthwhile project and to introduce Dominique Rodriguez, Marissa Nall, Andreana Rocha, Matt Bacon, Martin McMillan, and Dinh Le, winners of the essay contest.

FUNDING: None required.

Susan J. Blackston
City Clerk

SJB/JMP

APPROVED: _____
H. Dixon Flynn, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Presentation By Downtown Lodi Business Partnership To Winners Of The 2003 Parade Of Lights

MEETING DATE: February 4, 2004

PREPARED BY: City Clerk

RECOMMENDED ACTION: None required.

BACKGROUND INFORMATION: Pamela Hayn, Executive Director, and Peter Westbrook, President of the Downtown Lodi Business Partnership, will present awards to the winners of the 2003 Parade of Lights, held December 4, 2003.

FUNDING: None required.

Susan J. Blackston
City Clerk

SJB/JMP

APPROVED: _____
H. Dixon Flynn, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Presentation Regarding Ballot Measure L, Funding Repairs, Upgrades, and Expansions to San Joaquin Delta College

MEETING DATE: February 4, 2004

PREPARED BY: Janet L. Hamilton, Management Analyst

RECOMMENDED ACTION: None required.

BACKGROUND INFORMATION: San Joaquin Delta College Board Member Maria Elena Serna and President Dr. Raul Rodriguez will make a presentation to Council.

FUNDING: None

H. Dixon Flynn
City Manager

Prepared by: Janet Hamilton, Management Analyst

APPROVED: _____
H. Dixon Flynn, City Manager



FRIENDS OF DELTA COLLEGE

5250 CLAREMONT AVENUE, SUITE 241 STOCKTON, CA 95207

PHONE: (209) 472-3712 FAX: (209) 472-3714

YES ON L FOR DELTA COLLEGE

Help San Joaquin Delta College – VOTE YES ON L.

For nearly 70 years, our College and Education Centers have provided excellent, affordable education to students throughout our region. College programs provide a skilled workforce, train students for better paying jobs, and prepare students for transfer to 4-year universities. Our police, fire safety, emergency medical services and nursing programs train thousands of professionals who keep our citizens safe and healthy.

Unfortunately, the age of our buildings threaten quality education. Classrooms, computer labs and libraries are more than 30 years old, and need upgrades to accommodate modern technology. Outdated fire safety equipment needs replacement, asbestos/hazardous materials must be removed.

New classrooms and computer labs will accommodate expanded job training programs. As a result, Measure L will help to provide a better-educated workforce, which will benefit local business and stimulate our economy.

Faculty, staff, students and community members identified urgent priorities, which are less expensive to address now, than in the future. Measure L will:

- ✓ **Repair leaky roofs;**
- ✓ **Replace decaying walls;**
- ✓ **Upgrade wiring;**
- ✓ **Improve fire safety;**
- ✓ **Remove asbestos;**
- ✓ **Expand Education Centers and classrooms.**

Because the University of California and California State University systems are becoming so expensive, more students are relying on our College for affordable education. Measure L will expand educational programs throughout our region, the fifth-fastest growing in California.

Measure L is subject to tough fiscal accountability requirements.

Financial audits **MUST** be published annually, with all expenditures monitored by an independent Citizens Oversight Committee to ensure funds are spent as specified in the Bond Plan.

By law, the Bond Oversight Committee must include senior, taxpayer, and business representatives, among others. NO district employees or vendors can serve, and NO bond money can be spent on administrators salaries.

VOTE YES on L for quality education.

YES I Support Measure L to Help Delta College

ENCLOSED IS MY DONATION FOR: I WILL:

☐ \$5000 ☐ \$2500 ☐ \$1000

☐ \$500 ☐ \$100 ☐ \$50

☐ Other _____

☐ You may use my name publicly
as an endorser of Measure L

☐ Volunteer in the campaign office

☐ Recruit other volunteers

☐ Make phone calls to voters

☐ Walk a precinct

☐ Put up a 4' x 4' sign on my property

Signature required

Name _____

Address _____

City _____ State _____ Zip _____

Home Phone _____ Work Phone _____

Occupation* _____ Employer* _____

Fax _____ Email _____

Please make checks payable to: Friends of Delta College - Yes on Measure L
5250 Claremont Avenue, Suite 241, Stockton, CA 95207
Phone: (209) 472-3712 • Fax: (209) 472-3714 • www.fosjdc.com

*State law requires us to collect and report the name, mailing address, occupation and employer of
individuals whose contributions exceed \$100.

Paid for by Friends of Delta College - Yes on Measure L, FPPC # 1260672. Tax ID # 73-1686177.



2004: Will it be full of drama?

Camelot: When the last Delta College bond passed in 1969, we built a splendorous citadel for higher education. The castle has become a little leaky and drafty over the years but its regal aura and usefulness as an intellectual hub and economic foundation are still sturdy. If 55 percent of the voters will support the proposed \$250 million bond, we will not only fix up the Stockton campus, but may have a north county learning center serving Lodi and Galt.

We expect the knights of good sense will rally to the cause of Measure L on March 2.

Lodi News-Sentinel Opinion Page
Saturday, December 27, 2003



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CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Receive Register of Claims Dated January 21, 2004, in the Amount of \$6,954,736.21

MEETING DATE: February 4, 2004

PREPARED BY: Finance Technician

RECOMMENDED ACTION: That the City Council receive the attached Register of Claims. The disclosure of the PCE/TCE expenditures are shown as a separate item on the Register of Claims.

BACKGROUND INFORMATION: Attached is the Register of Claims in the amount of \$6,954,736.21 dated January 21, 2004, which includes PCE/TCE payments of \$112.21

FUNDING: As per attached report.

Vicky McAthie, Finance Director

Attachments

APPROVED: _____
H. Dixon Flynn, City Manager

Accounts Payable
Council Report

Page
Date
Amount

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- 01/21/04

As of Thursday	Fund	Name	
01/08/04	00100	General Fund	460,268.49
	00160	Electric Utility Fund	3,082,700.59
	00161	Utility Outlay Reserve Fund	1,039,194.57
	00164	Public Benefits Fund	8,693.63
	00170	Waste Water Utility Fund	17,360.45
	00172	Waste Water Capital Reserve	407,605.79
	00180	Water Utility Fund	665.31
	00181	Water Utility-Capital Outlay	8,315.49
	00210	Library Fund	12,344.99
	00211	Library Capital Account	1,669.05
	00270	Employee Benefits	1,420.60
	00300	General Liabilities	11,513.55
	00310	Worker's Comp Insurance	8,988.76
	00329	TDA - Streets	1,336.28
	00331	Federal - Streets	33,376.94
	01211	Capital Outlay/General Fund	803.64
	01212	Parks & Rec Capital	
	01250	Dial-a-Ride/Transportation	6,099.90
	01410	Expendable Trust	12,748.63
Sum			5,115,106.66
	00183	Water PCE-TCE	28.21
Sum			28.21
Total for Week			
Sum			5,115,134.87

Accounts Payable
Council Report

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As of Thursday	Fund	Name	Amount
01/15/04	00100	General Fund	903,810.66
	00160	Electric Utility Fund	19,719.04
	00161	Utility Outlay Reserve Fund	9,086.89
	00164	Public Benefits Fund	12,242.41
	00170	Waste Water Utility Fund	340,544.40
	00171	Waste Wtr Util-Capital Outlay	192.08
	00172	Waste Water Capital Reserve	67,505.27
	00180	Water Utility Fund	316,065.42
	00181	Water Utility-Capital Outlay	1,115.92
	00182	IMF Water Facilities	6,687.50
	00210	Library Fund	3,617.51
	00234	Local Law Enforce Block Grant	182.89
	00235	LPD-Public Safety Prog AB 1913	7,695.91
	00270	Employee Benefits	35,406.39
	00300	General Liabilities	50.00
	00310	Worker's Comp Insurance	28,826.26
	00327	IMF(Local) Streets Facilities	526.50
	00332	IMF(Regional) Streets	94.00
	00501	Lcr Assessment 95-1	1,440.00
	00503	Landscape & Lightng Dist Z-2	4,042.00
	01211	Capital Outlay/General Fund	36,469.57
	01212	Parks & Rec Capital	209.88
	01250	Dial-a-Ride/Transportation	7,400.27
	01410	Expendable Trust	36,586.57
Sum			1,839,517.34
	00183	Water PCE-TCE	84.00
Sum			84.00
Total for Week			
Sum			1,839,601.34

Council Report for Payroll

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1

Date -

01/21/04

Payroll	Pay Per Date	Co	Name	Gross Pay
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-				
Regular	01/04/04	00100	General Fund	824,519.58
		00160	Electric Utility Fund	153,405.62
		00161	Utility Outlay Reserve Fund	3,000.92
		00164	Public Benefits Fund	6,152.02
		00170	Waste Water Utility Fund	63,874.10
		00180	Water Utility Fund	7,429.05
		00210	Library Fund	31,008.16
		00235	LPD-Public Safety Prog AB 1913	806.76
		01250	Dial-a-Ride/Transportation	2,882.97

Pay Period Total:				1,093,079.18
Sum				



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve Minutes
a) December 17, 2003 (Regular Meeting)
b) January 7, 2004 (Regular Meeting)
c) January 16, 2004 (Special Meeting)

MEETING DATE: February 4, 2004

PREPARED BY: City Clerk

RECOMMENDED ACTION: That the City Council approve the following minutes as prepared:
a) December 17, 2003 (Regular Meeting)
b) January 7, 2004 (Regular Meeting)
c) January 16, 2004 (Special Meeting)

BACKGROUND INFORMATION: Attached are copies of the subject minutes, marked Exhibit A through C.

FUNDING: None required.

Susan J. Blackston
City Clerk

SJB/JMP

Attachments

APPROVED: _____
H. Dixon Flynn, City Manager

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, DECEMBER 17, 2003**

CALL TO ORDER / ROLL CALL

The Adjourned City Council Closed Session meeting of December 17, 2003 (adjourned from meeting of December 15), was called to order by Mayor Hansen at 5:02 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land (arrived at 5:20 p.m.), and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

CLOSED SESSION

At 5:02 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the following two matters, which were adjourned from the Special City Council meeting of December 15, 2003:

- B-1 Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- B-2 Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658

The Adjourned Closed Session meeting ended at 6:05 p.m.

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of December 17, 2003, was called to order by Mayor Hansen at 6:07 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Prospective acquisition of real property located at 1279, 1263, and 1219 Bezug Lane, Lodi, CA (APN #031-040-15, 031-040-13, and 031-040-10); the negotiating parties are City of Lodi and Joseph R. and Barbara Battaglia, John M. and Mary M. Battaglia, and Mazen M. and H. Mardini, respectively; Government Code §54956.8 (PW)
- b) Actual litigation: Government Code §54956.9(a); one case; Sanchez v. City of Lodi et al., San Joaquin County Superior Court, Case No. CV 022301 (HR)

C-3 ADJOURN TO CLOSED SESSION

At 6:07 p.m., Mayor Hansen continued the Closed Session meeting to discuss the above matters.

The Closed Session adjourned at 6:17 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:00 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Hays disclosed the following actions.

In regard to Items B-1 and B-2, on a vote of 4-1 (Council Member Hitchcock dissenting), staff received direction from Council with regard to settlement negotiations with USF&G.

In regard to Item G2 (a), Council gave direction to staff with regard to how to proceed with the proposed acquisition.

In regard to Item C-2 (b), with a 3-1 vote (Council Member Hitchcock dissenting), Council authorized staff to retain outside counsel to handle the case. Mayor Hansen reported that he had abstained from discussion and voting on this matter, as he had a potential conflict of interest.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of December 17, 2003, was called to order by Mayor Hansen at 7:00 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

B. INVOCATION

The invocation was given by Father Rick Matters, St. John the Baptist Episcopal Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hansen.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

D-3 (a) Ricky Gill and Karlyn Nieland, members of the Greater Lodi Area Youth Commission, recognized the Teen of the Month, Sherri Tejamu from Jim Elliot Christian High School, and provided Council with an update on the Commission's accomplishments.

D-3 (b) Following introduction by Rob Lechner, Manager of Customer Service and Programs, Mayor Hansen presented a Certificate of Recognition to Rob Lechner as the coordinator of the Lodi Youth Helping Hands Project, who accepted the Certificate on behalf of the 47 volunteers who participated in the project.

D-3 (c) Tony Galvin, representing the Lodi Area All Veterans Plaza Foundation, presented a check in the amount of \$10,000 to Mayor Hansen, accepting on behalf of the City, for the quarterly payment on loan from the City of Lodi.

D-3 (d) Tiffani Fink, Transportation Manager, and Sergeant Tod Patterson with the Lodi Police Department gave a presentation regarding the kick off of the City of Lodi's Bicycle and Pedestrian Office of Traffic Safety Grant Program KID PATROL.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Land, Beckman second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

E-1 Claims were approved in the amount of \$4,429,134.54.

E-2 The minutes of November 10, 2003 (Special Joint Meeting with the Parks and Recreation Commission) and December 3, 2003 (Regular Meeting) were approved as written.

E-3 Approved the donation of a retired scoreboard to Lodi Cycle Bowl.

E-4 Adopted Resolution No. 2003-233 approving the plans and specifications and authorizing advertisement for bids for Traffic Signal and Street Lighting Improvements at Lodi Avenue and Mills Avenue, and Signal Interconnect System on Lodi Avenue; and authorizing the City Manager to award the contract and appropriate funds in the amount of \$452,000.

- E-5 Adopted Resolution No. 2003-234 awarding bids for purchase of polemount and padmount transformers to the bidders whose proposal and equipment meet City of Lodi specifications, and whose transformers are expected to yield the lowest overall life-cycle costs:
- | | |
|--|-------------|
| Wesco Distribution, San Leandro (polemounts & 112.5kVA padmounts) | \$33,819.50 |
| Western States Electric, Portland, OR (50, 75, and 750kVA padmounts) | \$45,239.91 |
| Howard Industries, Laurel, MS (37.5kVA padmounts) | \$ 6,038.31 |
| Ermco, c/o Hees Enterprises, Astoria, OR (500kVA padmounts) | \$11,714.58 |
- E-6 Adopted Resolution No. 2003-235 awarding the purchase of 72,500 feet of ADSS fiber optic cable, pole line hardware, fiber optic test and splicing equipment, and GE OC-3 JungleMUX Multiplexer equipment to the low bidders in each category and appropriated funds in the amount of \$305,952.42.
- E-7 “Adopt resolution authorizing the City Manager to approve the purchase of White Slough Water Pollution Control Facility filter, aeration, and UV disinfection equipment; appropriate wastewater funds; and adopt reimbursement resolution (up to \$6.6 million)” was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-8 Adopted Resolution No. 2003-236 to rescind the award to Graybar Electric, of Roseville, for Category 2 (Overhead Hardware) of the Electric Utility Overhead and Underground Distribution Hardware Supply Contract for 2003-05 for failure to sign the agreement, and to award Category 2 to the second-low bidder, Southwest Power, of Benicia, for an estimated total amount of \$38,750.36.
- E-9 Adopted Resolution No. 2003-237 awarding the contract for DeBenedetti Park/G Basin Rough Grading to A.M. Stephens Construction Company, of Lodi, in the amount of \$266,680; and appropriated \$320,000 for the project in accordance with staff recommendation.
- E-10 Adopted Resolution No. 2003-238 awarding the contract for Rental and Cleaning of Uniforms and Other Reusable Products to Prudential Overall Supply, of West Sacramento, in the amount of \$15,000± per year.
- E-11 Adopted Resolution No. 2003-239 accepting the improvements in Tienda Place, Unit No. 1, Tract No. 3141.
- E-12 Adopted Resolution No. 2003-240 accepting the improvements in Tienda Place, Unit No. 2, Tract No. 3198.
- E-13 Adopted Resolution No. 2003-241 approving the addendum to the improvement agreement for the public improvements of Century Meadows One, Unit 2, Tract No. 2786, and directed the City Manager and City Clerk to execute the addendum to the improvement agreement on behalf of the City.
- E-14 Adopted Resolution No. 2003-242 authorizing the City Manager to execute a contract with Camp Dresser & McKee, Inc., for value engineering services for the White Slough Water Pollution Control Facility project and appropriated up to \$120,000 from the Wastewater Fund.
- E-15 Adopted Resolution No. 2003-243 amending Traffic Resolution 97-148 approving converting the traffic control at the intersection of Tokay Street and Washington Street from a two-way stop to a multi-way stop and approving the installation of stop signs on Live Oak Way at Sweetwood Drive.
- E-16 “Adopt resolution amending the policy and fee for fence and landscape maintenance in new developments to require the formation of a lighting and landscape district” was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.**

- E-17 Adopted Resolution No. 2003-244 establishing and updating Public Works engineering fees for preparation of agreements and processing of improvement projects.
- E-18 "Adopt resolution authorizing the City Manager to allocate a Public Benefits Program grant in the amount of \$25,000 for energy efficiency improvements for the LOEL Center's senior housing project" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
-

ACTION ON ITEMS REMOVED FROM THE CONSENT CALENDAR

- E-18 "Adopt resolution authorizing the City Manager to allocate a Public Benefits Program grant in the amount of \$25,000 for energy efficiency improvements for the LOEL Center's senior housing project"

NOTE: Due to a potential conflict of interest related to his employment with F&M Bank, Council Member Land abstained from discussion and voting on this matter.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Beckman second, adopted Resolution No. 2003-245 authorizing the City Manager to allocate a Public Benefits Program grant in the amount of \$25,000 for energy efficiency improvements for the LOEL Center's senior housing project. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hitchcock, Howard, and Mayor Hansen
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – Land

- E-7 "Adopt resolution authorizing the City Manager to approve the purchase of White Slough Water Pollution Control Facility filter, aeration, and UV disinfection equipment; appropriate wastewater funds; and adopt reimbursement resolution (up to \$6.6 million)"

Public Works Director Prima explained that phase two of the White Slough Water Pollution Control Facility project consists of installation of tertiary filters, UV disinfection equipment, additional aeration improvements and related work. He referenced the "blue sheet" (filed) submitted to Council and reported that the UV filters are being bid competitively, while the aeration panels and tertiary filters are sole source.

In answer to Council Member Howard, Mr. Prima confirmed that staff will be following through with the cloth-media filtration equipment.

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, unanimously adopted Resolution No. 2003-246 authorizing the City Manager to approve the sole-source purchase of White Slough Water Pollution Control Facility filter, aeration, and UV disinfection equipment; appropriated wastewater funds; and adopted Resolution No. 2003-247 declaring intent to reimburse certain expenditures from proceeds of indebtedness (up to \$6.6 million).

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Ken Owen, Director of Christian Community Concerns, submitted a written statement (filed) to Council and expressed concern regarding confusion about what is, and is not, acceptable seasonal religious expression in the community. He cited the following case law and stated that the following forms of religious expression are legal under the constitution:

1. Students are free to express their religious beliefs in school (*Lovell v. City of Griffin*, 303 U.S. 444 1938; *Westfield High School L.I.F.E. Club v. City of Westfield*, 249 F. Supp. 2D 98 D. Mass. 2003);
2. At school students can sing Christmas carols at concerts, teach the biblical origins of Christmas, and perform the Christmas story of Mary, Joseph, Jesus, and the shepherds (*Florey v. Sioux Falls School District*, 619 F. 2D 1311 6th Cir. 1980; *Stone v. Graham*, 449 U.S. 39 1980); and
3. Nativity displays can be placed in schools, parks, and government buildings (*Americans United for Separation of Church and State v. City of Grand Rapids*, 980 F. 2D 1538 6th Cir. 1992; *West Virginia v. Barnette*, 319 U.S. 624, 642 1943; *Lynch v. Donnelly*, 465 U.S. 668, 671 1984).

In conclusion Mr. Owen stated that the U.S. Constitution, laws, and court decisions are all construed to protect and permit religious expression in both public schools and government buildings.

- Donna Phillips, representing Friends of Lodi Lake, expressed opposition to the Extreme Sports proposal by the Parks and Recreation Department to be brought before Council in January. She stated that it would bring noise and a carnival atmosphere to a residential area. Friends of Lodi Lake would like to keep the park serene and peaceful. She urged Council to reject the proposal.
- Ron Bernasconi recalled that a time limit was placed on speakers at Council's special joint meeting with the Recreation Commission on November 10. He noted that the following day, City Clerk Blackston provided Council with a memorandum, which indicated that the five-minute limit applied to non-agenda items. Mr. Bernasconi stated that he had a presentation prepared for the November 10 meeting, which spanned a decade of facts and circumstances; however, he was not given adequate time to make the presentation. He reported that since 1993 the City's relationship with the Boosters of Boys and Girls Sports (BOBS) has created joint duties imposed by state law to screen out violent sexual criminals who have volunteered to have authority over youth on public schools, parks, and recreational facilities. Mr. Bernasconi stated that he had documents, which established these facts; however, they were not included in the 97-page meeting packet that Council received on November 10, though they had been in the custody of the City Attorney. He reminded Council Members that staff was supposed to fully apprise them of the legal and operational relationship between the City and BOBS. The documents provided evidence that various public officials engaged in willful or negligent misconduct related to the refusal to implement and/or obey state law to protect youth from violent or sexual criminals. He believed they were serious matters that deserved public disclosure. Mr. Bernasconi referenced documents he submitted to Council (filed) and reported that in 1995 Deputy City Attorney John Luebberke advised the Recreation Commission that the 1993 Public Resources Code sees these codes as all inclusive and that City employees and volunteers having disciplinary authority over minors must be screened. He stated that Mr. Luebberke also acknowledged a relationship between the City and the BOBS and recommended that all volunteer positions be screened. Mr. Bernasconi asked Council to grant him an opportunity to fully address these issues.

City Attorney Hays recalled that the City Clerk's memorandum also indicated that Council's procedures provide for a motion to limit debate, which was what occurred on November 10. He stated that the program referred to by Mr. Bernasconi had been implemented by the City and has been in place for several years. He acknowledged that Council discussed the matter in 1995; however, the topic was tabled and not brought back. Staff implemented the procedure subsequent to that time.

Mr. Bernasconi noted that the minutes of November 10 reflect that two Recreation Commissioners supported the position that BOBS board members have supervisory and disciplinary authority over minors on public schools, parks, and playgrounds. He pointed out that the City did not implement the law until August 2001, only after the Department of Justice had required them to do so.

Council Member Hitchcock recalled that Mr. Beckman had asked on November 10 whether limiting public comments to five minutes was a standard procedure, to which Mr. Hays had replied that it was. She felt that Council had been misinformed.

Council Member Beckman agreed with Ms. Hitchcock; however, given Council's authority to limit debate, he felt that the end result at that particular meeting would not have changed.

Addressing Mr. Bernasconi, Mayor Hansen stated that an ad hoc committee was created to review the BOBS matter and return to Council with recommendations. He recalled that Mr. Bernasconi has had many opportunities to express his concerns to Council, and noted that if he would like to pursue the matter in court it would be his choice.

Council Member Hitchcock did not believe there was due process given on November 10 and stated that when the committee makes its recommendations to Council the public will have an opportunity to respond.

G. PUBLIC HEARINGS

- G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider unmet transit needs in Lodi for fiscal year 2003-04.

Tiffany Fink, Transportation Manager, reported that the Transportation Development Act requires that annual hearings be held for unmet transit needs. The hearings are held in every jurisdiction throughout the county at a variety of venues. The goal is to determine where there is a deficiency in transit service that could be met. Feedback from the meetings is taken to the social services technical advisory committee to review and determine if they are reasonable. A draft document will be prepared and available to the public for review later this year.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

Council Member Hitchcock asked what comments Ms. Fink had received and she replied that she had received one comment thus far; however, it did not relate to Lodi's service. Ms. Hitchcock recalled that concerns have been expressed for years regarding the length of time it takes for Dial-A-Ride service. She believed that there were more complaints last year than previously. It had been pointed out to her that the cause for delay was in part due to students using Dial-A-Ride rather than accessing the Grapeline.

Ms. Fink reported that, overall, rider ship is up and reservations have increased each year. Lodi has a general public service program, so preference is not given to seniors or the disabled.

Council Member Hitchcock preferred that senior citizens be given preference for Dial-A-Ride service over able-bodied users.

Council Member Howard stated that she would like a Shirtsleeve Session held to review how the transition to MV Transportation has gone, whether it has implemented the customer service programs it spoke of when it was awarded the contract, and what the feedback has been.

Mayor Hansen recommended that Ms. Fink provide Council with a presentation in the future regarding the feasibility of setting up a priority system to better serve the disabled and senior citizens of the community.

MOTION / VOTE:

There was no Council action necessary on this item.

H. COMMUNICATIONS

H-1 Claims filed against the City of Lodi – None

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 Appointments – None

H-4 Miscellaneous

- a) City Clerk Blackston presented the cumulative Monthly Protocol Account Report through November 30, 2003.

I. REGULAR CALENDAR

- I-1 “Presentation of proposal by Bill Mathis of Mathis and Associates and selection of facilitator for team-building sessions with Council Members”

Deputy City Manager Keeter noted that on November 16 Pastor Dale Edwards gave a presentation on this topic. Following the presentation this evening by Bill Mathis, Council is asked to discuss and make a facilitator selection for its team-building sessions.

Mr. Mathis reported that he has worked in both the public and private sector for the past 30 years and that 80% of his work is with public officials. He commented that he has worked with 157 city managers and 45 city attorneys who have been fired. He noted that one of the areas councils have difficulty with is in evaluating their city managers and attorneys. He stated that a council that does not have agreed-upon guidelines and rules is almost always going to have conflicts within itself. He proposed interviewing council members initially and then conducting an evening orientation session, with a team-building session held the following day for five to six hours.

In reply to Council Member Land, Mr. Mathis stated that he has assisted 50 cities in developing a code of ethics.

Council Member Hitchcock felt that all three council appointees (i.e. City Manager, City Attorney, and City Clerk) should participate in the team-building session.

Mr. Mathis agreed and commented that, though city clerks are neutral and apolitical, they have ideas to contribute, which can be more easily expressed when they are not going to get exposed for their viewpoint.

Mayor Hansen noted that Mr. Mathis charges \$5,000 to \$6,000 for his services; whereas, Pastor Edwards has agreed to facilitate Council team-building sessions at no cost.

In answer to Council Member Hitchcock, Mr. Mathis stated that his fee includes interviews and Friday and Saturday sessions; it does not include additional follow up.

Council Members Howard and Land suggested that Pastor Edwards be selected as the facilitator for initial team-building sessions.

Council Member Hitchcock recommended that Mr. Mathis' fee be paid for from each Council Member's travel budget, as she felt that the expertise and experience Mr. Mathis would bring to the process would be worth the expenditure and result in greater effectiveness.

MOTION/ VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Land second, unanimously selected Pastor Dale Edwards with Century Assembly Church to facilitate the team-building sessions with the Lodi City Council.

RECESS

At 8:34 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 8:43 p.m.

I. REGULAR CALENDAR (Continued)

- I-2 "Discussion and appropriate action regarding budget deficit and Vehicle License Fee backfill impacts to the City of Lodi"

City Manager Flynn recalled that in late November staff announced the action by the Governor to repeal the Vehicle License Fee (VLF) increase and to bring it back to the old level without any recommendations regarding backfill, which brought the City to an immediate crisis. Mr. Flynn commented that he was supportive of the Governor's action, because he believed it was the right thing to do for the citizens of California. He noted, however, that he felt the State should meet its obligation to backfill the VLF. The portion of the VLF that goes to public safety in Lodi is 46%.

Reviewing a "blue sheet" report on this item (filed and marked as Exhibit A), Mr. Flynn recommended that the \$95,000 subsidy to Spohn Ranch for operation of the skate park be eliminated and that the park remain open, but unsupervised. He noted that when considering layoffs, for budget purposes, an average of \$65,000 a year is attributed to each employee. He recalled that initial budget projections showed that an additional \$51,900 was needed this year and \$189,000 next year, to fully fund the Public Employees Retirement System (PERS). In reference to medical insurance rate increases, the City over budgeted \$59,378 this year and \$352,700 next year. He recommended that General Liability be increased an additional \$100,000. Variable time off was budgeted at \$50,000; however, the City attained \$165,000. The "golden handshake" retirement program was budgeted to save \$600,000; however, it was decided not to implement the program, so the money must be added back in.

Mr. Flynn stated that if the City does not get the VLF, there is \$2,232,000 in the general fund capital accounts that could be put back into the general fund operating account to address the shortfall. He reported that reserves in the general fund were drawn down by \$1.5 million and as of June 30 it totaled a decrease in reserves of 5%. He recommended that an additional \$774,000 be placed in the reserve account in 2004-05. He reported that if the City does not get the VLF, it will lose \$2,680,000 this year and \$2,680,000 next year. By combining the VLF loss and other adjustments, it results in a net shortfall of \$4,435,416.

Debbie Olson, League of California Cities Regional Representative, reported that there will be an announcement tomorrow from the Governor's Office, which she believed would provide funding for the VLF beginning December 26 through March when the bond measure will be considered.

Council Member Howard recommended that Council Members reduce their travel accounts from \$5,000 to \$3,000 and decrease the Protocol Account from \$18,000 to \$15,000.

In answer to Mayor Hansen, Mr. Flynn explained that the total VLF is \$3.2 million. He stated that the difference between \$3.2 million and \$2.6 million is 35%, i.e. the City's guarantee. The backfill amount is \$2.6 million.

Finance Director McAthie reported that the State notified her office that the money sent in October and November was an error and that it would rectify it by not sending any money in January or February.

Ms. Olson confirmed that the Department of Motor Vehicles has said that there will be no VLF in January or February, and potentially in March.

Council Member Hitchcock requested a report that shows the entire budget picture, i.e. all revenues, expenditures, and budgeted priorities.

Mr. Flynn reported that salaries are less than what was budgeted. The City's budget deficit, in terms of employees, would equal 68 people at an average of \$65,000 each, which includes salary and benefits. He pointed out that it should not be considered as a particular job, but rather, a position and the service it provides. The Council will look at the budget side and make decisions as to what services the City will provide. He stated that ideas such as a mandatory furlough have been considered. One day each pay period would constitute a 10% cut in salary. Another idea was to cut out all services that were not considered "core services" of the City; however, making that determination is problematic.

Referencing an addendum to the staff report (filed and marked as Exhibit B), Mr. Flynn stated that he would like to institute a "City Manager's Budget Review Committee." In addition, he suggested that a public survey be done to assist the committee in making its recommendations and to help the community define what core City services are. He distributed the city of Roseville's survey (filed and marked as Exhibit Q), which ranked general fund services.

Mr. Flynn reviewed phase one suggestions (filed and marked as Exhibit D). He reported that the total sum of these actions as they applied to this year and next year would amount to a savings of \$208,350. If the VLF backfill is not received, the City will be faced with a deficit of \$4,100,000. He reported that the City has 489 authorized positions; of these positions 52 are employed in Electric Utility, one is paid from transportation funds, and 40 are employed in the Water and Wastewater Divisions of Public Works. Currently there are 25 general fund position vacancies. There are 165 public safety officers and dispatchers. One code enforcement position is fully funded by block grant money. After subtracting these positions from the original number, there would be 205 positions remaining to consider for a reduction in force. If 68 positions were removed it would result in a reduction in services by one third in all other functions.

Council Member Hitchcock recommended that the public survey be done in-house, rather than spending \$30,000 for a consultant. She asked Mr. Flynn if the projected \$750,000 savings as a result of 25 vacancies is on target, to which he replied in the affirmative.

Council Member Land voiced support for the concept of getting community input on the budget situation. He suggested the name of "Voice Your Choice" for the public survey. He recommended that the survey also solicit revenue-generating ideas from the community. Addressing the City Manager and Deputy City Manager, he recommended that formal presentations be made to service clubs, church groups, etc. In reference to potential budget cuts, he expressed his opinion that every department should participate including those funded by enterprise funds. He agreed with the phase one recommendations, as well as Ms. Howard's suggestion to decrease Council Members' Travel Accounts and the Protocol Account. In addition he suggested that City Council's salary be decreased by 20% and the traditional payment for attendees at the annual Delta College Business Leadership Summit be eliminated. He asked Mr. Flynn to reconsider the fleet management policy as part of subsequent phases.

Mayor Pro Tempore Beckman believed that Council's interaction with the community serves, essentially, as a survey. For this reason he was not in favor of Mr. Flynn's recommendation to expend funds on a formal survey. He pointed out that Lodi has a 2% growth cap and many citizens have voiced opposition to the proliferation of large retail stores in the community. These actions are, in part, the reason Lodi is facing budget difficulties.

MOTION #1 / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Hitchcock second, unanimously adopted Phase I as follows to be implemented immediately:

Phase I	2003-2004	2004-2005	Total 18 mos.
ICMA survey fee	(6,000)	(6,000)	(12,000)
Leadership Lodi & UOP	(2,300)	(5,400)	(7,700)
Skate park	(30,000)	(65,000)	(95,000)
City Manager reduction in travel expense	(8,000)		(8,000)
City Manager reduction in benefits	(10,000)		(10,000)
ISD training budget reduction	(40,000)		(40,000)
Finance - change final notification process	(8,000)		(8,000)
Eliminate unencumbered GASB 34 funds	(10,000)		(10,000)
HR freeze job reclassification studies	(3,450)		(3,450)
Library reduce maintenance & repair duplication	(8,000)		(8,000)
Library reduce summer reading club supplies	(1,200)		(1,200)
Defer purchase of sod cutter for year	(5,000)		(5,000)
	131,950	76,400	208,350

In response to Council Member Land's suggestion of decreasing Council Member salary, Mayor Hansen noted that it would only be a symbolic gesture and, in his case, a 20% cut would nearly result in him owing the City each month. He reported that, after taxes, he nets \$125 every other week. In addition, he often times does not seek reimbursement for business travel costs such as mileage or parking fees and rarely, if ever, charges for meals while on business.

In answer to Council Member Land, City Attorney Hays stated that a section of the Government Code addresses council salary and he believed it only allowed for changes at the time of an election. He noted that Mr. Land could take his check and then donate back a portion of it if he chose to.

MOTION #2 / VOTE:

The City Council, on motion of Council Member Howard, Land second, unanimously reduced Council Members' Travel Expense Accounts from \$5,000 to \$3,000 each and reduced the Protocol Account from \$18,000 to \$15,000.

MOTION #3 / VOTE:

The City Council, on motion of Mayor Hansen, Hitchcock second, unanimously directed the City Manager to explore options for a survey and return to Council on January 7, 2004, with a recommendation.

- I-3 "Adopt resolution supporting the *Local Taxpayers and Public Safety Protection Act*, the November 2004 ballot initiative cosponsored by the League of California Cities, designed to increase local control over local tax dollars"

Debbie Olson, League of California Cities Regional Representative, reported that, for over a decade, the state has been balancing its budgets on the backs of local government. During the late 1990s when the state budget had billion dollar surpluses, it continued to take \$800 million a year from local governments. The Local Taxpayers and Public Safety Protection Act is a constitutional amendment to protect local government revenues. The Act's name was chosen because in the majority of cities over 60% of their general fund money goes toward public safety. The measure requires voter approval before the state government can take local government revenues. Additionally, it makes it clear that legislature cannot require local governments to provide services without also providing payment for those services. It does not raise taxes, does not take money from any other service, nor does it provide for a larger piece of the budget to go to local government. Mayor Pro Tempore Beckman voiced support for the resolution.

Council Member Howard noted that the title for the initiative was originally "A Ballot Initiative to Protect Local Government Revenues." She preferred the original title because it best clarified that the money that would be protected goes to a general fund. Every city's percentage of general fund that is distributed toward public safety is different. She believed that the title was changed to gain voter compassion.

In response to Council Member Howard, Ms. Olson explained that the retroactive section of the initiative was designed to prevent the legislature from cutting all local government funding from this budget year, or between the time it is filed and the date of the election, without having an alternative source of funding for those local government funds; otherwise, they would have to go to the voters right away. The three main areas that the initiative addresses are VLF and property and sales tax. It also has a provision in it for cities that have redevelopment funding.

MOTION:

Council Member Land made a motion, Hansen second, to adopt Resolution No. 2003-248 supporting the *Local Taxpayers and Public Safety Protection Act*, the November 2004 ballot initiative cosponsored by the League of California Cities, designed to increase local control over local tax dollars.

DISCUSSION:

Council Member Hitchcock reported that Assembly Member Alan Nakanishi sent a letter informing the City that he spoke personally with the Governor regarding the critical importance of providing VLF backfill funding to local governments. The Governor gave his assurance that he was committed to seeing that cities receive the VLF backfill that they depend on.

Mayor Hansen stated that he would be participating in gathering signatures for the initiative and encouraged others to do the same.

VOTE:

The above motion carried by a unanimous vote.

- I-4 "Update regarding audit (agreed-upon procedures) of Envision Law Group's billings"

Mayor Hansen reported that he has received communications from Envision Law Group and Barger & Wolen and has also obtained copies of decisions from the Lincoln court case. Some billings in the Lincoln case were found to be unreasonable and unnecessary, which was evident in one ruling in which the judge cut in half invoices that totaled more than \$600,000 and in a separate ruling \$128,000 in invoices was cut. In the Lincoln case,

funding that had been designated for cleanup was being spent at such a high rate that they were running out of money for the abatement. In reference to the potential conflict of interest issue, both Barger & Wolen and Envision Law Group created hypothetical questions to present to the State Bar. The City Attorney and attorneys from Barger & Wolen reviewed both the questions and determined that they were essentially the same. Robert Levy of Barger & Wolen presented his question to the State Bar and was informed that it was a waivable conflict and they could proceed with the audit.

Council Member Howard pointed out that Envision Law Group still represents the City and she asked that negative comments about the firm be held until results of the audit are known.

Council Member Hitchcock asked Mr. Hansen what the total cost of the Lincoln case was, to which he replied that it was more than what Lodi has spent so far. Ms. Hitchcock stated that she had been very disturbed to read in the newspaper that the judge has basically informed the City that it does not have a case. She felt that it was unconscionable and negligent representation that led the City to this point. She believed that Envision Law Group came to Lodi and implemented the same practices it used in the Lincoln case.

Council Member Beckman offered to call the State Bar and obtain an answer on the conflict of interest issue.

John Meyer of Envision Law Group pointed out that Barger & Wolen was opposing counsel on the Lincoln case and he believed that they had taken tremendous liberties with the facts. He urged Council to speak with representatives of Lincoln Properties to ascertain its level of satisfaction before Council reaches final assessment of the historical facts relating to Envision's representation of that client.

Mayor Hansen explained that his comments were not based solely upon information from Barger & Wolen; his opinion was also formed after reviewing the judge's decisions and transcripts from the hearings.

MOTION / VOTE:

There was no Council action necessary on this item.

- I-5 "Housing Element update: announcing the commencement of the public review of the proposed Housing Element and draft Environmental Impact Report"

Jeff Goldman of Cotton Bridges Associates reviewed the draft 2003-09 City of Lodi Housing Element (filed). He reported that the introduction provides an overview for the entire element, e.g. its purpose and contents, the community context, state law requirements, data that was used and the sources of that information, summary of goals and policies, public participation, and how the document is consistent with the rest of the general plan. The community profile is the background chapter of the element, which speaks to population, household characteristics and projections, housing stock characteristics, employment trends, needs of special population groups, status of assisted rental housing, government subsidized rental housing that may be at risk of converting to market rate housing, opportunities for energy conservation, and the City's future housing construction needs. Chapter three focuses on resources available to the City including land resources to meet future housing needs and constraints that may impede the ability to meet those needs. The most important part of the document is the housing strategy, which includes goals, policies, programs, and quantified objectives. One of the aspects of identifying what the City's needs are, and how they will be met, is Lodi's share of San Joaquin County's regional housing construction needs between 2001-09. Under the San Joaquin Council of Governments' regional housing allocation plan, the City needs to show how it can accommodate 4,014 housing units during this period. A number of these units have been built, are under construction, or approved; however, there is still a significant number that needs to be shown can be accommodated in Lodi. The draft housing element will become

available for public review beginning next week. The draft will also be submitted to the State of California to begin the 60-day mandated state review by the Department of Housing and Community Development (HCD). This process will conclude in February 2004 with written comments as to whether, in HCD's opinion, the element is, or is not, in substantial compliance with state law. Staff will address the State's written comments during February and March and will return to Council for adoption of the housing element in April. Subsequent to that, the State will review the document again for a period of up to 90 days.

Community Development Director Bartlam noted that public review of the draft Environmental Impact Report will be concurrent with the review period of the draft housing element. During the next 60 days there will be a Planning Commission hearing held specifically to receive comment. In addition, staff will be making presentations to specific interest groups that have requested additional information.

In reply to Council Member Hitchcock, Mr. Bartlam indicated that a Shirtsleeve Session would be held toward the end of February to review the status of the document following the bulk of the public comment period and after written comments from the State have been received.

MOTION / VOTE:

There was no Council action necessary on this item.

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Council Member Howard, Hitchcock second, unanimously voted to continue with the remainder of the meeting following the 11:00 p.m. hour.

I. REGULAR CALENDAR (Continued)

- I-6 "Adopt resolution establishing hiring guidelines regarding employees or volunteers who perform services at a park, playground, school facility, recreational center, or beach in a position having supervisory or disciplinary authority over any minor"

City Attorney Hays reported that his office discovered that the underlying legal authority for the screening program, which the City was using to do background checks dealing with recreational activities, had been repealed. References to sections dealing with what crimes were to be disqualifying had been eliminated from the state law. Under the City's police power, a policy can be adopted that would reinstitute the program in terms of the specific disqualification actions on the part of a person. The resolution before Council puts into place a policy of the City with regard to disqualification that is a mirror image of the provisions of the state law that were excised out.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Howard second, unanimously adopted Resolution No. 2003-249 establishing hiring guidelines regarding employees or volunteers who perform services at a park, playground, school facility, recreational center, or beach in a position having supervisory or disciplinary authority over any minor.

- I-7 "Introduce ordinance amending Title 8, Health and Safety, Chapter 8.24, Comprehensive Municipal Environmental Response and Liability, by repealing and reenacting Section 8.24.010, 'Definitions,' Subsection 2, and Section 8.24.040, 'Liability,' Subsection F, to the Lodi Municipal Code relating to abatement action costs and recovery issues"

City Attorney Hays explained that agenda items I-7 and I-8 are companion items. One of the principle documents provided to Council was the Fireman's Fund Insurance Company versus the City of Lodi case. In that case the vast majority of the Municipal Environmental

Response and Liability ordinance (MERLO) was found to be valid by the Ninth Circuit Court; however, it found a few questionable circumstances. He read the following statement from the staff report, *"As the Court ruled that the MERLO should be preempted by federal law to the extent that MERLO defined 'abatement action costs' in a manner permitting the City to recover attorneys fees and interest in an abatement action concerning a site (or portion of a site) where the City would be deemed a potentially responsible party under federal CERCLA, an amendment to the MERLO is appropriate to: (1) limit the definition of 'abatement action costs' as including litigation costs or attorneys fees imposed by the MERLO to those instances where the City is not liable under 42 U.S.C. section 607; and (2) expressly authorize the recovery of attorneys fees by a prevailing party pursuant to California Government Code Section 38773.5 in specific actions."* Mr. Hays explained that the amended ordinance is designed to address that query of the Ninth Circuit Court.

Council Member Hitchcock asked what the issues were and why there was a need to make the changes.

Mr. Hays stated that the City has responded to the Ninth Circuit by defining abatement action costs and pointed out that if the City is not a potentially responsible party (PRP) "certain things happen" and if it is a PRP "other things happen." He noted that some of the amendments to the MERLO were simply clarification items. He explained that the court stated that if the City is liable, and to the extent that it is, its abilities to recover abatement action costs are limited. It has been made clear in the ordinance that the issue that the court addressed is now recognized.

Discussion ensued between Council Member Hitchcock and Mr. Hays who attempted to clarify the changes contained in the MERLO.

Council Member Hitchcock stated that she was suspect about making any amendments and expressed concern that it would create another negative situation for the litigation.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Land second, introduced Ordinance No. 1738 amending Title 8, Health and Safety, Chapter 8.24, Comprehensive Municipal Environmental Response and Liability, by repealing and reenacting Section 8.24.010, "Definitions," Subsection 2, and Section 8.24.040, "Liability," Subsection F, to the Lodi Municipal Code relating to abatement action costs and recovery issues. The motion carried by the following vote:

Ayes: Council Members – Beckman, Howard, Land, and Mayor Hansen

Noes: Council Members – Hitchcock

Absent: Council Members – None

- I-8 "Introduce ordinance amending Title 8, Health and Safety, Chapter 8.24, Comprehensive Municipal Environmental Response and Liability, by repealing and reenacting Section 8.24.090, 'Miscellaneous Provisions,' Subsections D and E, and adding Subsection F to the Lodi Municipal Code relating to the availability of contribution"

City Attorney Hays explained that this amendment to the Municipal Environmental Response and Liability ordinance (MERLO) addresses the second issue in the Ninth Circuit Court opinion. The Ninth Circuit ruled that the MERLO is preempted by federal law to the extent that it prohibited contribution against the City even if the City was a potentially responsible party. Mr. Hays stated that the MERLO never intended to not allow contribution. He stated that the court was not sure that the general contribution law in the state environmental statutes applied, so it said to the extent that they do not apply, the MERLO would be preempted. The amendment now clearly states in the MERLO that they do apply, but if the court chooses to find that is not the case, the MERLO includes a contribution scheme.

MOTION:

Mayor Pro Tempore Beckman made a motion, Land second, to introduce Ordinance No. 1739 amending Title 8, Health and Safety, Chapter 8.24, Comprehensive Municipal Environmental Response and Liability, by repealing and reenacting Section 8.24.090, "Miscellaneous Provisions," Subsections D and E, and adding Subsection F to the Lodi Municipal Code relating to the availability of contribution.

DISCUSSION:

Council Member Hitchcock recalled that in a conversation with representatives from Barger & Wolen they spoke critically of the MERLO and stated that it was asking for things that even the state could not do. She expressed concern about the MERLO amendments and stated that she would be voting no on the motion.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Howard, and Land

Noes: Council Members – Hitchcock and Mayor Hansen

Absent: Council Members – None

- I-9 "Introduce ordinance amending Lodi Municipal Code Title 13 – Public Services by adding Chapter 13.14 'Stormwater Management and Discharge Control' relating to Stormwater"

Public Works Director Prima explained that the ordinance was modeled after the city of Sacramento's stormwater ordinance. He stated that, essentially, it takes a lot of what was in the wastewater ordinance and separates it into an ordinance regarding stormwater. The ordinance is in response to state and federal mandates regarding stormwater programs, discharge, and the City's stormwater permit.

In reply to Council Member Hitchcock, Mr. Prima reported that the section on service charges and fees is unique to Lodi. Article five was moved from the sewer ordinance to this ordinance. There is no change to existing practices. The ability to issue a notice for a stormwater discharge violation is made clear. The reference to a basin plan is new.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Beckman second, unanimously introduced Ordinance No. 1740 amending Lodi Municipal Code Title 13 – Public Services by adding Chapter 13.14 "Stormwater Management and Discharge Control" relating to Stormwater.

- E-16 "Adopt resolution amending the policy and fee for fence and landscape maintenance in new developments to require the formation of a lighting and landscape district"

Council Member Hitchcock recalled that the last time staff brought this issue before Council they were opposed to it, and asked why they had changed their recommendation.

Public Works Director Prima explained that since the first presentation staff had an opportunity to go through the process and found it not to be as onerous as anticipated. In addition a scheme has been developed wherein new projects would be annexed to the existing district, which simplifies the process. He noted that impact fees cannot pay for maintenance, as they are one-time fees to cover capital facilities.

Council Member Hitchcock pointed out that it would likely be more cost effective for new homeowners' associations to have one landscaper maintain the area inside and outside reverse frontage walls. For this reason, she preferred that homeowners' associations remain in the policy as an option.

Council Member Land foresaw problems if homeowners' associations went bankrupt and were not able to maintain the public right of way area.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Beckman second, adopted Resolution No. 2003-250 amending the policy and fee for fence and landscape maintenance in new developments to require formation of a lighting and landscape district or a homeowners' association. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hitchcock, and Mayor Hansen

Noes: Council Members – Howard and Land

Absent: Council Members – None

J. ORDINANCES

None.

K. ADJOURNMENT TO AGENCY MEETINGS

K-1 "Meeting of the Lodi Public Improvement Corporation"

At 11:55 p.m., Mayor Hansen adjourned the City Council meeting to conduct the meeting of the Lodi Public Improvement Corporation. Following the call to order, Secretary Blackston recorded roll.

MOTION / VOTE:

The Corporation, on motion of Land, Beckman second, unanimously adopted Resolution No. LPIC2003-03 electing the new officers to the Lodi Public Improvement Corporation for the year 2004.

There being no further business, the meeting was adjourned at 11:56 p.m.

K-2 "Meeting of the Industrial Development Authority"

At 11:56 p.m., Chairperson Hansen called to order the meeting of the Industrial Development Authority, and Secretary Blackston recorded roll.

MOTION / VOTE:

The Authority, on motion of Authorizing Member Land, Beckman second, unanimously adopted Resolution No. IDA-24 electing the new officers to the Industrial Development Authority for the year 2004.

There being no further business, the meeting was adjourned at 11:57 p.m.

K-3 "Meeting of the Lodi Financing Corporation"

At 11:57 p.m., President Hansen called to order the meeting of the Lodi Financing Corporation, and Secretary Blackston recorded roll.

MOTION / VOTE:

The Corporation, on motion of Director Beckman, Land second, unanimously adopted Resolution No. LFC-10 electing the new officers to the Lodi Financing Corporation for the year 2004.

There being no further business, the meeting was adjourned at 11:58 p.m.

K-4 "Meeting of the City of Lodi Redevelopment Agency"

At 11:58 p.m., Chairperson Hansen called to order the meeting of the City of Lodi Redevelopment Agency, and Secretary Blackston recorded roll.

MOTION #1 / VOTE:

The Agency, on motion of Member Beckman, Land second, unanimously adopted Resolution No. RDA2003-02 electing the new officers to the City of Lodi Redevelopment Agency for the year 2004.

MOTION #2 / VOTE:

Further, the Agency, on motion of Member Land, Howard second, unanimously waived the \$50 compensation for its meeting of December 17, 2003.

There being no further business, the meeting was adjourned at 11:59 p.m.

Mayor Hansen reconvened the City Council meeting at 11:59 p.m.

L. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Howard recognized the Church of Jesus Christ of Latter-day Saints who had 200 nativity scenes on exhibit for the public last weekend.
- Council Member Hitchcock asked City Clerk Blackston to provide Council with an electronic copy of supplemental meeting documents.
- Council Member Land extended a Merry Christmas and Happy New Year greeting to the citizens of Lodi and reminded everyone about the Kids' Night Out on New Year's Eve.
- Mayor Hansen wished everyone a Merry Christmas and commended Century Assembly Church for its Singing Christmas Tree event.

M. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn announced that Richard Prima's birthday was December 30.

N. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 12:10 a.m., Thursday, December 18, 2003, in memory of Elizabeth Rosenquist.

ATTEST:

Susan J. Blackston
City Clerk

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JANUARY 7, 2004**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of January 7, 2004, was called to order by Mayor Hansen at 5:34 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual litigation: Government Code §54956.9(a); one case; *Silicon Energy Corp., v. City of Lodi et al.*, San Joaquin County Superior Court, Case No. CV016042
- b) Conference with Human Resources Director concerning Vacation Accrual Cap Policy regarding all bargaining units and unrepresented employees pursuant to Government Code §54957.6
- c) Conference with Labor Negotiator, Human Resources Director Joanne Narloch, regarding Association of Lodi City Employees concerning Maintenance and Operators pursuant to Government Code §54957.6

C-3 ADJOURN TO CLOSED SESSION

At 5:34 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:56 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:08 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Hays disclosed the following actions.

In regard to Item C-2 (a), on a motion of 4-1 with Council Member Land dissenting, Council provided settlement direction and authority to the City Attorney's Office.

In regard to Items C-2 (b) and (c), Council provided direction to its negotiators relative to the City's position to pursue.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of January 7, 2004, was called to order by Mayor Hansen at 7:08 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

B. INVOCATION

The invocation was given by Pastor Richard Wheeler, Living Truth Christian Center.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hansen.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

- D-3 (a) Council Member Hitchcock announced that the Martin Luther King Unity Celebration, coordinated by the Breakthrough Project, would be held on January 19 at Hutchins Street Square. She noted that 2004 was the first year that City Hall would be closed in recognition of Martin Luther King Day, which she stated is representative of Council's appreciation of diversity in the community.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Land, Hitchcock second, unanimously approved the following items hereinafter set forth:

- E-1 Claims were approved in the amount of \$2,108,653.62.
- E-2 The minutes of November 18, 2003 (Shirtsleeve Session), November 19, 2003 (Regular Meeting), December 2, 2003 (Shirtsleeve Session), December 2, 2003 (Special Meeting), December 9, 2003 (Shirtsleeve Session), December 9, 2003 (Special Meeting), December 15, 2003 (Special Meeting), December 23, 2003 (Shirtsleeve Session), December 30, 2003 (Shirtsleeve Session), and December 30, 2003 (Special Meeting) were approved as written.
- E-3 Authorized the sale of scrap wire and metal during 2004.
- E-4 Received report of the sale of surplus equipment.
- E-5 Adopted Resolution No. 2004-01 approving the plans and specifications and authorizing advertisement for bids for the Pine Street Sidewalk Replacement Project (north side of Pine Street from School Street to the alley west of Sacramento Street) and authorizing the City Manager to award or reject the contract up to \$65,000; and appropriated funds.
- E-6 Approved the donation of retired bleachers to the Lodi-Tokay Rotary Club.
- E-7 Adopted Resolution No. 2004-02 awarding the contract for the Armory Park Ball Diamond Renovation, 333 North Washington Street, to A.M. Stephens Construction, of Lodi, in the amount of \$58,346.70; and appropriated \$63,500 in accordance with staff recommendation.
- E-8 Adopted Resolution No. 2004-03 approving the addendum to the improvement agreement for public improvements of Almondwood Estates, Tract No. 3273, directed the City Manager and City Clerk to execute the addendum to the improvement agreement on behalf of the City, and appropriated funds in the amount of \$48,070.
- E-9 Adopted Resolution No. 2004-04 approving the addendum to the improvement agreement for the public improvements of Century Meadows Two, Unit No. 4, Tract No. 3272, directed the City Manager and City Clerk to execute the addendum to the improvement agreement on behalf of the City, and appropriated funds in the amount of \$58,400 for the required reimbursement.
- E-10 Adopted Resolution No. 2004-05 approving the improvement agreement for public improvements at 312 and 316 South Sacramento Street (APN 045-310-02 and 045-310-03), directed the City Manager and City Clerk to execute the Agreement on behalf of the City, and appropriated funds in the amount of \$29,000 for the applicable reimbursements.
- E-11 Adopted Resolution No. 2004-06 approving a rental agreement between the City of Lodi and Richard and Teresa Mojica, dba Mojica's Batting Cages, for use of 125 E. Elm Street, Unit D.

- E-12 Adopted Resolution No. 2004-07 authorizing the City Manager to extend the consulting services agreement with McDonald Partners, Inc., through June 2004 to provide bulk power cost modeling and strategic services to the Electric Utility Department in the amount of \$70,000.
 - E-13 Adopted Resolution No. 2004-08 authorizing the City Manager to allocate a Public Benefits Program Grant in the amount of \$25,000 to Schaefer Systems International, Inc., for a process cooling equipment demand-side management project.
 - E-14 Adopted Resolution No. 2004-09 approving Memorandum of Understanding between City of Lodi and Lodi Police Mid-Management Organization.
 - E-15 Adopted Resolution No. 2004-10 amending Traffic Resolution 97-148 by approving the conversion from Yield to Stop Controls at the following three intersections: Chestnut Street at Pleasant Avenue, Chestnut Street at School Street, and Tamarack Drive at Lee Avenue.
 - E-16 Introduced Ordinance No. 1741 repealing and reenacting Lodi Municipal Code Chapter 12.06, Downtown Lodi Business Improvement Area No. 1, Section 12.06.090, "Collection of Benefit Fee," and Chapter 3.01, Business Tax Certification, Section 3.01.460, "Enforcement," relating to collection and enforcement of various fees.
 - E-17 Introduced Ordinance No. 1742 amending Title 9 – Public Peace, Morals, and Welfare, Chapter 9.08, "Offenses Against Property," by repealing and reenacting Section 9.08.150 of the Lodi Municipal Code relating to vehicles.
 - E-18 Set public hearing for January 21, 2004, to consider the reallocation of unobligated Community Development Block Grant funds in the amount of \$50,000 to the Salvation Army.
-

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

G. PUBLIC HEARINGS

None.

H. COMMUNICATIONS

H-1 On recommendation of the City's contract administrator, Insurance Consulting Associates, Inc., and Human Resources staff, the City Council, on motion of Council Member Land, Beckman second, unanimously rejected the following claim:

- a) Charles Mauch, date of loss 6/24/03

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Land, Beckman second, unanimously adopted Resolution No. 2004-11 appointing the following four additional members to the Community Separator / Greenbelt Task Force:

Community Separator / Greenbelt Task Force

Kevin Sharrar
Bruce Fry
Bill Cummins
Carl Fink

In response to Council Member Land, City Clerk Blackston confirmed that she would send a copy of the resolution to the new members of the Greenbelt Task Force. Council Member Hitchcock reported that she had planned on meeting with Community Development Director Bartlam to develop a tentative meeting schedule for the Task Force.

b) "Appointment to the San Joaquin Partnership"

Council Member Land explained that his time constraints and extra demands placed on him at work made it difficult for him to attend the Partnership meetings.

MOTION #1 / VOTE:

The City Council, on motion of Council Member Land, Howard second, unanimously appointed John Beckman as the Delegate to the San Joaquin Partnership:

MOTION #2 / VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, unanimously appointed Emily Howard as the Alternate to the San Joaquin Partnership.

c) The City Council, on motion of Council Member Land, Beckman second, unanimously directed the City Clerk to post for the following expiring terms on the Site Plan and Architectural Review Committee:

Site Plan and Architectural Review Committee

Donald P. Kundert Term to expire January 1, 2004

Roger Stafford Term to expire January 1, 2004

H-4 Miscellaneous – None

I. REGULAR CALENDAR

I-1 "Update from Mayor Larry Hansen regarding audit (agreed-upon procedures) of Envision Law Group's billings"

Mayor Hansen reported that he and Council Member Hitchcock met with Robert Levy and David McMahon of the firm Barger & Wolen on December 30 and signed the contract. At that time he also provided them with a compact disc that contained billings from the litigation through 2002, and copies of the agreements with Envision Law Group and Lehman Brothers.

Council Member Land stated that the City has paid \$5.3 million from its enterprise fund to Envision Law Group. Lehman Brothers has spent \$15.3 million. Envision Law Group has accrued bills totaling \$6.4 million. He asked whether Barger & Wolen had decided how it would prioritize the audit. He expressed hope that they would begin with the \$5.3 million the City had paid.

Mayor Hansen replied that he would discuss this with Barger & Wolen.

Mayor Pro Tempore Beckman commented that he had previously asked the City Attorney how much the City was charged to have representatives from Envision Law Group at the Council meeting on October 1 and was informed that they had billed \$1,900. He recommended that Barger & Wolen consider that as part of the audit and add it to the list of charges the City should be credited for.

MOTION/ VOTE:

There was no Council action necessary on this item.

RECESS

At 7:34 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 7:43 p.m.

I. REGULAR CALENDAR (Continued)

- I-2 "Review options for conducting a public survey and authorize the City Manager to negotiate such services as determined by Council"

Deputy City Manager Keeter recalled that the concept of conducting a survey to gauge the public's sentiment regarding capital projects, programs, and general City services has been discussed many times over the years. The City is now at a critical juncture as it begins to focus on mid-year budget adjustments and the potential of budget shortfalls for this current fiscal year, as well as for 2004-05. A survey would provide citizens a voice in government and an opportunity to rate the importance of services the City provides. Ongoing feedback could be provided via an online citizen advisory board. Ms. Keeter stated that staff does not have the software necessary to facilitate the process, nor expertise in developing surveys, and is short staffed in every department due to the hiring freeze. In addition, she pointed out that there would be questions regarding the integrity of the survey if it were done in-house. DataCycles was identified as a highly respected and reputable firm with expertise in developing and implementing surveys. If the recommendation is approved tonight, the goal is to have the survey results by April 2. Ms. Keeter asked that following Steve Childs' presentation, Council authorize the City Manager to negotiate an agreement with DataCycles for conducting the Lodi survey in an amount up to \$31,500. The survey cost would be paid from fund balance of operating funds from electric, water, sewer, transit, and the general fund.

Steve Childs explained that DataCycles is a technology-based consulting firm that specializes in collecting, analyzing, and mapping a variety of information. It has a flexible and adaptable system that is proprietary and the company is a venture-funded enterprise. DataCycles has worked for the cities of Palo Alto, San Jose, Alameda, and Roseville. Mr. Childs reported that City Manager Flynn had recommended that 4,000 voters from the last election be drawn from a random selection and surveyed first. As a second phase to the project, all City residents would be asked to respond to the survey. An introductory postcard would be sent with a reminder card going out one week later to those who had not yet replied. Citizens would be able to respond via the internet or paper survey. The general survey would be promoted through utility bills, both with messages and an insert. Mr. Childs assured Council that all of the information is completely secure. With the use of an overhead projector he demonstrated Roseville's internet survey and accompanying reports.

In answer to Mayor Hansen, Mr. Childs reported that statisticians have analyzed DataCycles data and found 95%, + or - 5 points, confidence intervals. There are checks and balances in the system that look at scoring, time date stamps, etc. to ensure it is clean data. In addition there are firewalls and other protections within the system.

In reply to Council Member Howard, Mr. Childs confirmed that DataCycles had not provided services to an agency or business in San Joaquin County before. He stated that DataCycles manages 100% of its work and does not take partnerships. The random selection of voters will use more rigorous methodology and is the scientific portion of the survey. He explained that if one person (i.e. from the random voter group and general group) submitted two surveys it would not make any difference in the average scoring. The registration page asks for identifying information and duplicates are removed at the end of the process. DataCycles will work closely with staff on determining which services need to be ranked. The work is done on a project basis as a professional services agreement. DataCycles is a subscription-based service. The subscription is for one year; however, Mr. Childs stated that DataCycles deferred \$3,000 of the \$5,750 subscription price toward any future work that the City might want to do. The subscription covers its technology, data

hosting, data exports, user configuration, directory account, etc. The project fees are on a per project basis. The advisory panels also have a per project fee. Mr. Childs reported that of the \$22,750 cost, \$2,750 is for the subscription fee.

At the request of Council Member Hitchcock, Mr. Childs described the process of formulating questions for the survey. He stated that the City will own the data; however, identifying information of respondents will not be included because DataCycles promises total anonymity to participants.

In response to Council Member Land's suggestion of eliminating the random survey, Mr. Childs explained that the general survey is not scientific, and it would not result in a significant cost savings because most of the work is done in phase one.

Mayor Pro Tempore Beckman pointed out that Council was elected to make decisions and believed that this process would be abdicating the trust given to Council. Further, he stated that spending \$30,000 on a survey would not be a good use of the City's limited dollars. He noted that the public is afforded many ways to provide comments and feedback to Council Members, e.g. at every meeting, through e-mail, writing, phone calls, etc.

Council Member Hitchcock recommended that the survey also allow the public an opportunity to prioritize projects and express whether or not they would support a bond to pay for the projects.

Mayor Hansen believed that the survey results might allow an avenue for the "silent majority" to express its view.

MOTION / VOTE:

The City Council, on motion of Council Member Howard, Hansen second, authorized the City Manager to negotiate a contract with DataCycles for the purpose of conducting a public survey. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Land, and Mayor Hansen

Noes: Council Members – Beckman

Absent: Council Members – None

Following discussion, it was agreed to have Council included in the preview group for the survey. Mr. Childs indicated that the draft survey would be forwarded to Council electronically for solicitation of comments back to DataCycles.

RECESS

At 9:15 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 9:25 p.m.

I. REGULAR CALENDAR (Continued)

- I-3 "Adopt resolution authorizing staff to solicit proposals for a catering service and rental contract for Hutchins Street Square facilities and authorizing the City Manager to reject or award the contract"

Community Center Director Silvestre reported that most events scheduled at Hutchins Street Square require services of liquor licenses, catering, and concession personnel. An on-site caterer would allow staff to streamline services for City-sponsored events, as it would result in less time spent on paperwork for liquor licenses, obtaining the services of caterers, or acting as caterers and cleaning up afterwards. Ms. Silvestre explained that it would provide an added value to rental clients and noted that it is now an industry standard to offer on-site catering services. The service would not be a mandatory requirement for rental clients and, if chosen, would be charged back to the renter. She reported that 80%

of customers who call to rent space ask if an on-site caterer is available. She also stated that the City would gain additional revenue by renting the kitchen and small office space to a catering vendor at the current market rate. The kitchen and office space would not be intended as their main office; rather, it would be a satellite facility. Use fees to the service provider would be commensurate with the depreciation of the equipment in the building.

In answer to Council Member Howard, Ms. Silvestre reported that the contract would initially be for a one-year trial period. She confirmed that if a party opted to hire an outside caterer they would have full access to the kitchen and equipment.

PUBLIC COMMENTS:

- Former Community Center Director Charlene Lange pointed out that an on-site caterer would be especially beneficial to out of town customers who are unfamiliar with vendors in the area. She reiterated that approval of this request would be a revenue source for the City and assured Council that a choice would be offered to prospective customers.

Council Member Hitchcock recommended that a preference be given to Lodi caterers.

- Eddie Aguirre expressed hope that non-profit organizations would be allowed to bid as well.

MOTION / VOTE:

The City Council, on motion of Council Member Beckman, Land second, unanimously adopted Resolution No. 2004-12 authorizing staff to solicit proposals for a catering service and rental contract for Hutchins Street Square facilities and authorizing the City Manager to reject or award the contract.

I-4 "Update on White Slough Water Pollution Control Facility improvements"

Public Works Director Prima reported that a contract was awarded for phase one construction, which is earthwork and underground work in preparation for installing filters. A change order was written for excavating work at DeBenedetti Park to bring dirt out to White Slough in preparation for the filters, which will save money on the phase two contract. PG&E promised the City a study in December as to how it would upgrade the power lines to serve the facility, but it has not yet been completed and is now anticipated in mid-January. Last month Council authorized a sole-source purchase for the \$1.5 million filters; however, staff is negotiating with a second supplier and expects an answer by next week. The UV disinfection equipment low bid came in at a little over \$1.9 million. Within the next few weeks staff intends to pursue purchase of the aeration panels. Mr. Prima anticipated returning to Council in April to award the phase two contract, which will be to install all the equipment and do other improvements at the plant. A \$25 million financing would cover the cost to purchase the equipment, the installation contract, and leave money to make land purchases and some additional work to get started on phase three. Staff will return to Council for financing phase three once the EIR is complete and more is known regarding discharge issues. He explained that phase three was planned to be relocation of the discharge and construction of the wetland.

In response to Mayor Hansen, Mr. Prima reported that approximately 300 customers take advantage of the 10% discount on water and wastewater, 800 for solid waste, and 1,300 for the 20% electric utility discount program. Mr. Prima stated that he would try to combine these programs for low-income customers and include this information in a future presentation to Council.

MOTION/ VOTE:

There was no Council action necessary on this item.

J. ORDINANCES

- J-1 Ordinance No. 1738 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 8 – Health and Safety – Chapter 8.24, Comprehensive Municipal Environmental Response and Liability, by Repealing and Reenacting Section 8.24.010 – 'Definitions,' Subsection '2,' and 8.24.040 – 'Liability,' Subsection 'F,' to the Lodi Municipal Code Relating to Abatement Action Cost and Recovery Issues"

Council Member Hitchcock expressed concern about Ordinances 1738 and 1739, due to Judge Damrell's December 22 opinion and severe criticism of the Comprehensive Municipal Environmental Response and Liability Ordinance (MERLO). She read portions of a "blue sheet" communication (filed) from Ron Bernasconi, in which he recommended that Council secure independent legal counsel prior to making any changes to the MERLO.

Mayor Pro Tempore Beckman asked the City Attorney whether the amendments to Ordinances 1738 and 1739 were changes that were ordered to be made by the U.S. Court of Appeals for the Ninth Circuit.

City Attorney Hays recalled that the amendments to the MERLO were calendared several months ago, but due to the length of the Council meetings, they were not acted upon. He pointed out that if they had not been delayed they would have been in place prior to Judge Damrell's decision. He stated that they have been brought to Council based upon a "playing out of the string" of the Ninth Circuit opinion in the Fireman's Fund case, which is not the case that is going to trial. The Ninth Circuit found 9 out of 11 challenges to the MERLO invalid. The amendments now presented to Council address questions that the Ninth Circuit raised relative to the MERLO.

Council Member Land reported that the actual dollars spent by the City so far out of its water fund has been \$5.3 million and of that amount, \$1 million went to the State of California for a settlement with Department of Toxic Substances Control. Thousands of dollars have been paid to an environmental group to do testing and gather data.

Council Member Hitchcock felt that it was important for Council to consider what has happened since the MERLO amendments were drafted and what the court is now informing the City. She reported that \$25 to \$30 million has been spent on the litigation thus far and \$7 million in interest has been accrued. She believed that it would be improbable for Lehman Bros. not to pursue payment. She urged Council not to adopt the ordinances until an outside legal opinion is obtained. She stated that the City Attorney has repeatedly not been forthcoming in reporting to Council what has been transpiring regarding the litigation and court opinions given by Judge Damrell. She asserted that Mr. Hays was in lock step with Michael Donovan and stated that, in terms of his representation for the City and citizens of Lodi, he might as well be a partner in the firm of Envision Law Group.

Council Member Howard was opposed to Council seeking the opinion of outside counsel and expressed her opinion that Mr. Hays was capable and thanked him for his patience. She believed that adopting the ordinances at this time would be responsible action on the part of the Council.

City Manager Flynn stated that he received a report listing all expenditures related to the environmental abatement program from 1996 through November 2003. He reported that legal fees totaled \$15.8 million and of that amount, \$2.6 to \$2.7 million was paid to the firm of Zevick Horton Guibord McGovern and \$13.2 million was paid to Envision Law Group. The Department of Toxic Substances Control was paid \$1,000,024,000. Environmental Forensics, Henshaw Services, technical labs, and project management were paid \$5.5 million. In total the amount paid has been \$23.5 million. The City to date has received \$14 million in proceeds from the Certificate of Participation. \$6.3 million was paid out of the water fund and the City was reimbursed \$3 million by USF&G.

Council Member Land asked Mr. Flynn for a copy of the report to which he was referring.

In response to Mayor Hansen, Mr. Flynn acknowledged that interest was not included in the amounts he reported. Mayor Hansen asked Mr. Flynn to make the calculation and report back.

Council Member Hitchcock pointed out that Mr. Flynn had also not reported the \$6 million in accrued expenses by Envision Law Group, which has not yet been paid.

John Meyer of Envision Law Group believed that Mr. Flynn had reported actual payments; however, they reflect only a portion of the bills actually received. He stated that the City has received complete bills for each billing cycle from the inception of the environmental abatement program, pursuant to fee agreements with the City, and portions of those bills have been paid.

In answer to Mayor Hansen, Finance Director McAthie explained that, based on the agreement, each billing goes through a cap. She believed that the difference between the amount paid to date and the cap was \$1.6 million.

Mayor Hansen stated that he felt many of the same frustrations that Council Member Hitchcock expressed. He acknowledged that the relationship has deteriorated between Envision Law Group attorneys and some Members of the Council, and it is evident that there is a lack of trust with Mr. Donovan and the City Attorney.

Mayor Pro Tempore Beckman commented that he was in agreement with Ms. Hitchcock and Mr. Hansen regarding some of the credibility, billing, and trust issues with Envision Law Group, and to a lesser extent, with the City Attorney. He believed that Ordinances 1738 and 1739 comply with suggestions made by the Ninth Circuit Court and that their adoption would help the City's current situation.

In answer to Mayor Pro Tempore Beckman, Mr. Meyer explained that he had been asked by the City Attorney to attend the meeting in order to be available to answer questions that might arise.

Council Member Hitchcock perceived that Mr. Hays had not answered a previous question by Mr. Beckman in a straightforward manner, and she clarified that the Ninth Circuit Court did not ask the City to make amendments to the MERLO.

At the request of the City Attorney, Council Member Beckman stated, in contradiction to Ms. Hitchcock, that Mr. Hays had done an adequate job of answering his question. It was his understanding that the Ninth Circuit Court felt that there were portions of the MERLO that were probably not legitimate. Ordinances 1738 and 1739 are an attempt to change the law so that it complies with the appellate court's interpretation of the constitution.

MOTION:

Ordinance No. 1738 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 8 – Health and Safety – Chapter 8.24, Comprehensive Municipal Environmental Response and Liability, by Repealing and Reenacting Section 8.24.010 – 'Definitions,' Subsection '2,' and 8.24.040 – 'Liability,' Subsection 'F,' to the Lodi Municipal Code Relating to Abatement Action Cost and Recovery Issues," having been introduced at a regular meeting of the Lodi City Council held December 17, 2003, was brought up for passage on motion of Mayor Pro Tempore Beckman, Howard second.

DISCUSSION:

Council Member Hitchcock again urged Council to consider what Judge Damrell had said in his ruling regarding the MERLO. She stated that Judge Damrell was heavily critical of it and is forbidding the City to use the MERLO to collect attorneys fees and abatement costs. She believed that it would be detrimental to the City in the upcoming trial to adopt these ordinances.

VOTE:

Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

Ayes: Council Members – Beckman, Howard, and Land
Noes: Council Members – Hitchcock and Mayor Hansen
Absent: Council Members – None
Abstain: Council Members – None

- J-2 Ordinance No. 1739 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 8 – Health and Safety – Chapter 8.24, Comprehensive Municipal Environmental Response and Liability, By Repealing and Reenacting Section 8.24.090 – 'Miscellaneous Provisions,' Subsections 'D' and 'E,' and Adding Subsection 'F' to the Lodi Municipal Code Relating to Availability of Contribution" having been introduced at a regular meeting of the Lodi City Council held December 17, 2003, was brought up for passage on motion of Mayor Pro Tempore Beckman, Howard second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

Ayes: Council Members – Beckman, Howard, and Land
Noes: Council Members – Hitchcock and Mayor Hansen
Absent: Council Members – None
Abstain: Council Members – None

- J-3 Ordinance No. 1740 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 13 – Public Services by Adding Chapter 13.14 'Stormwater Management and Discharge Control' Relating to Stormwater" having been introduced at a regular meeting of the Lodi City Council held December 17, 2003, was brought up for passage on motion of Council Member Hitchcock, Beckman second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

Ayes: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – None

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Hitchcock asked the City Manager to provide Council with the report he referenced at the December 17 meeting, which outlined the current status of the general fund. She requested that an item be placed on the next agenda to authorize the retention of outside counsel to provide legal advice to Council in regard to the pending renegotiation of the contract with Envision Law Group.
- Mayor Hansen noted that Finance Director McAthie would soon be retiring and he commended her for doing an outstanding job and for her professionalism.
- Mayor Pro Tempore Beckman reported that during the meeting he received five cellular phone voice mail messages in support of the City conducting a public survey and two in opposition.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn reported that Finance Director McAthie has agreed to work a couple of days every week through June 30 and will be available at Council meetings. He announced that today was Mayor Pro Tempore Beckman's birthday.

Continued January 7, 2004

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:20 p.m.

ATTEST:

Susan J. Blackston
City Clerk

**LODI CITY COUNCIL
SPECIAL CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
FRIDAY, JANUARY 16, 2004**

A. CALL TO ORDER / ROLL CALL

The Special City Council meeting of January 16, 2004, was called to order by Mayor Hansen at 3:47 p.m.

Present: Council Members – Beckman, Hitchcock, and Mayor Hansen

Absent: Council Members – Howard and Land

Also Present: City Manager Flynn, Deputy City Attorney Schwabauer, and City Clerk Blackston

B. CLOSED SESSION

At 3:50 p.m., Mayor Hansen adjourned the Special City Council meeting to a Closed Session to discuss the following matter:

B-1 Actual Litigation: Government Code §54956.9(a); one case; *People of the State of California; and the City of Lodi, California v. M & P Investments, et al.*; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

The Closed Session adjourned at 4:25 p.m.

C. RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 4:27 p.m., Mayor Hansen reconvened the Special City Council meeting and disclosed the following action.

In regard to Item B-1, the following motions were made:

MOTION #1:

On a vote of 3-0 Council authorized Robert Levy and David McMahon of Barger & Wolen law firm to work with Deputy City Attorney Schwabauer and interim legal counsel (Kronick Moskovitz Tiedemann & Girard) for a combined report on the Lehman Brothers Agreement.

MOTION #2:

On a vote of 3-0 Council authorized the City Manager to execute a contract with Kronick Moskovitz Tiedemann & Girard to represent the City on an interim basis in connection with 1) assistance to the (Deputy) City Attorney's Office and 2) advice and counsel with respect to outstanding environmental cleanup litigation, including evaluation of the City's relationship with Lehman Brothers.

MOTION #3:

On a vote of 3-0 Council authorized Daniel O'Hanlon of Kronick Moskovitz Tiedemann & Girard to file a protective Notice of Appeal with the Ninth Circuit Court on January 21, 2004.

D. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

E. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 4:27 p.m.

ATTEST:

Susan J. Blackston
City Clerk



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve specifications and authorize advertisement for bids for 384 watthour meters (EUD)

MEETING DATE: February 4, 2004

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: That the City Council approve the specifications and authorize advertisement for bids for the purchase of 384 solid-state watthour meters.

BACKGROUND INFORMATION: The Electric Utility Department's Meter Division has requested that 384 solid-state watthour meters be purchased to provide an inventory for installation of meters at new residential developments throughout the city, as well as for replacement of obsolete and deteriorated meters located during meter testing.

This bid consists of 192 meters with automatic meter reading (AMR) communications modules, and 192 meters without. AMR technology allows certain meters to be read remotely, and is particularly useful in hard-to-read locations, such as residential back yards with locked gates. A pilot program initiated in September, 2001 has worked well for both the customer and the meter reading staff. Therefore, the Department plans to install a group of AMR meters annually and, over time, eliminate the problems associated with hard-to-read meters. The non-AMR meters which are removed during the change-out will be cleaned and re-calibrated, and placed back into service at another location within the city.

Standard packaging for residential meters is 96 units per pallet. The order quantity of a total of 384 meters will result in a delivery of four full pallets.

FUNDING: Electric Utility Department 2003-2005 Financial Plan and Budget,
Revenue Metering, Business Unit 161656, Page E-41
Estimated Cost: \$21,000

BID OPENING: February 18, 2004

Alan N Vallow, Electric Utility Director

Attachment: Specifications
Prepared by Joel Harris, Purchasing Officer

cc: Manager, EUD Engineering and Operations

APPROVED: _____
H. Dixon Flynn, City Manager

GENERAL

Meters shall be solid state devices with electronic registers that alternate between segment test and kWh consumption at a rate of approximately one change every six seconds. Display shall indicate "kWh" when this value is shown. All meters shall have a glass cover. A label marked "City of Lodi" and a sequential number shall be factory installed in addition to the following information: meter form number, class, voltage, wire, type, Hz, test amps, K_n, and ERT serial number if applicable.

Shipping boxes shall show on the outside the sequential number of the meter contained therein.

FORM

2S

STANDARDS

All meters shall conform to the following standards or latest revision thereof: American National Standards (ANSI) C12.1.

COMMUNICATION MODULE

AMR communication module shall be compatible with ITRON® standard consumption message protocol (no wake-up tone required) and shall be non-field programmable.

REQUIREMENT:

192 Watthour meters per specification with communication modules;
sequential number beginning with **38145**.

192 Watthour meters per specification **without** communication modules;
sequential number beginning with **38337**.



TM

CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve Specifications and Authorize Advertisement for Bids for Janitorial Services for City Facilities

MEETING DATE: February 4, 2004

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council approve the specifications for janitorial services for the City facilities and authorize advertising for bids.

BACKGROUND INFORMATION: This project consists of the janitorial specifications and contract requirements to service City Facilities. Within the past six years, the City facilities have grown by an estimated 110,000 square feet, including the addition of the new police facility. Growth and changing expectations in the quality of janitorial service indicate the need to update specifications and contract management, which requires appropriate re-bidding of the janitorial services contract. Significant changes to the specification include the ability to award separate contracts for each facility. In addition, the bid will allow selection of reduced service levels to reduce the total cost. These changes will allow the City to pursue the highest quality work with the most reasonable costs.

The specifications are on file in the Public Works Department.

FUNDING: The money for this project will be coming from the operations budget for the Public Works Department, Electric Utility Department, Transit Division, Parks and Recreation Department, and Hutchins Street Square. The Public Works Facilities Services Division oversees the janitorial contract for the City. A request for appropriation of funds, if needed, will be made at contract award.

Project Estimate \$200,000 per year
Budgeted: 2003/2004 fiscal year
Planned Bid Opening Date: March 3, 2004

Richard C. Prima, Jr.
Public Works Director

Prepared by Dennis J. Callahan, Fleet and Facilities Manager
RCP/DJC/pmf
Attachments

cc: Purchasing Officer
Parks & Recreation Director
Facilities Supervisor

Community Center Director
Electric Utility Director

Library Services Director
Transportation Manager

APPROVED: _____
H. Dixon Flynn, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve specifications and authorize advertisement for bid for a precast concrete Fiber Optic Control Building (\$25,000) EUD

MEETING DATE: February 4, 2004

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: That the City Council approve the specifications and authorize advertisement for bid for a precast concrete Fiber Optic Control Building (\$25,000).

BACKGROUND INFORMATION: The precast concrete Fiber Optic Control Building will house the "headend" consisting of the following major items; high-speed communication Sonet OC-3 JungleMUX equipment, electrical equipment and batteries necessary for the operation the fiber optic system. The bidder will deliver and install the building on the foundation, furnished by the City, within the secure area of the Henning Substation yard. The precast concrete building is similar to the type of building that would be found at cell and communication facilities across the country. Although the building will be permanently installed it does have the capability of being moved to another location if the need arises. In addition to the building cost, a structural engineer will design a grade beam foundation and a contractor will construct the foundation in the Henning Substation site (\$4,000).

FUNDING: Included in the 2003-2005 Financial Plan and Budget.
Business Unit 161685

Funding Approval: _____
Vicky McAthie, Finance Director

Alan N. Vallow
Electric Utility Director

PREPARED BY: Al Smatsky, Senior Electrical Estimator

ANV/AS/lst

cc: City Attorney
Purchasing Officer

APPROVED: _____
H. Dixon Flynn, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Authorize return of the remaining donated Breakaway Sports items to Mr. Dave Vaccarezza

MEETING DATE: February 4, 2004

PREPARED BY: Parks and Recreation Director

RECOMMENDED ACTION: That the City Council authorize return of the remaining donated Breakaway Sports items to donor, Mr. David Vaccarezza, in accordance with provisions of the amended Letter of Understanding dated January 24, 2003.

BACKGROUND INFORMATION: In February 2002, the City of Lodi accepted a very generous donation of approximately one million dollars of various sports equipment from Mr. Dave Vaccarezza. Over the course of time, staff met several times with various groups to develop plans on how best to use the donated items. Through this process, it was ultimately decided to focus efforts on the donated soccer fields and the construction of an open-air soccer facility to be located north of the Grape Bowl on City-owned property.

On December 18, 2002, staff presented a review of the Breakaway Sports donated items to the City Council and asked Council to authorize preparation of specifications and construction documents, as well as the advertisement for bids for the Soccer Field project facility installation. However, further evaluation of the project created many challenges that were not easy to address or overcome. There were no existing facilities available in Lodi to house the donated basketball courts, and costs to build the proposed project continued to escalate, resulting in a very high-cost facility that proved to be inferior to the one which was originally approved by Council.

As a result of the first challenge (no existing facilities), staff asked Council to approve the return of certain donated items to Dave Vaccarezza and to amend the original Letter of Understanding dated February 8, 2002. The Council approved this action on January 24, 2003, and those items were returned to the donor.

Concurrently, staff continued to look at different design options for the project and evaluate related costs. As costs continued to escalate and capital funds became more of a concern, staff finally made the recommendation to both the Parks and Recreation Commission and the City Council not to move forward with the Donated Soccer Field project as planned.

APPROVED: _____
H. Dixon Flynn, City Manager

The final step is to dispose of and/or return the equipment that remains in the City's possession pursuant to the conditions in the amended Letter of Understanding. Mr. Vaccarezza has acknowledged our demise and has graciously agreed to accept return of all items. This action will result in a savings to the City of \$828.26 per month, the amount currently being charged to store the equipment.

FUNDING: None needed

Tony Goehring
Parks and Recreation Director

TG:tl

cc: City Attorney



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Accept Improvements Under Contract for the Police Department Facility, 215 West Elm Street; and Notification of Contract Change Orders

MEETING DATE: February 4, 2004

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That City Council accept improvements under the contract for Lodi Police Department Facility, 215 West Elm Street. Also, in accordance with the Contract Change Order Policy, Council is being informed of change orders approved by the City Manager for this project since the May 21, 2003, Council meeting.

BACKGROUND INFORMATION: The project was awarded to McCarthy Construction, of Sacramento, on June 5, 2002, in the amount of \$10,894,400. The contract has been completed in substantial conformance with the plans and specifications approved by Council.

The project is now complete. The original contract completion date was January 5, 2004. The addition of the County Court area plumbing tenant improvements resulted in the extension of the completion date to January 30, 2004. Detailed below is a description of work for Contract Change Orders No. 23 through 46, totaling \$427,363. The total cost of change orders to date is \$539,229 or 4.95% of the original contract. Including these change orders, the total contract amount to date is \$11,433,629. More detailed descriptions and backup information for these change orders is available in the Public Works Department.

Change Order No. 23 - This change order is for the cost of providing code-required glass in the jail area. (\$27,128)

Change Order No. 24 - This change order is for the cost of additional structural steel issues at the elevators, garage doors and north entry canopy. (\$12,249)

Change Order No. 25 - This change order is for changing the gun lockers and the terrazzo badge colors. (\$2,206)

Change Order No. 26 - This change order is for various plumbing-related changes, including the male detox cell toilet, 3-way HVAC valves, and converting a closet to a janitor's closet. (\$8,041)

Change Order No. 27 - This change order is for the addition of three access card readers and associated work. (\$19,146)

Change Order No. 28 - This change order is for the additional costs to install door frames out of sequence, due to delays in submittal responses from the architect. (\$27,721)

Change Order No. 29 - This change order covers the cost for material changes to the secure ceilings in the jail cells. (\$10,015)

APPROVED: _____
H. Dixon Flynn, City Manager

Change Order No. 30 - This change order is for several miscellaneous changes, including a third coat of paint on the walls, fire coating at electric panels (per Building Department) and value engineering credit for lowering walls in jail area. (\$4,696)

Change Order No. 31 - This change order is for the cost of providing sectional doors at garages and code roll-down door at the second floor lobby window. (\$10,166)

Change Order No. 32 - This change order is for the cost of additional cabinetry in the equipment storage area and credit for some deleted cabinet work. (\$1,847)

Change Order No. 33 - This change order is for electrical changes, including additional power and data lines in the IS office, location of jail lighting control switches, and changing the quantity and type of exterior light fixtures. (\$23,953)

Change Order No. 34 - This change order is for providing code-required emergency battery backup power to the elevators. (\$27,939)

Change Order No. 35 - This change order is for routing the gas service line out to the revised meter location. (\$3,475)

Change Order No. 36 - This change order is for several changes to the security system for proper operation and access to the facility. It includes software and hardware to make identification and access cards. (\$73,559)

Change Order No. 37 - This change order covers the cost for relocating fire sprinklers in the sally port and HVAC changes, including a duct shaft at Room 2219 and spray-on acoustic insulation at AC1 & 2. (\$9,411)

Change Order No. 38 - This change order is for the cost of installing the street lights along Elm Street. This change order is funded in part by the Electric Utility Department. (\$22,248)

Change Order No. 39 - This change order is for the cost of installing smoke detectors in jail cells and electrical wiring for the evidence freezer. (\$7,141)

Change Order No. 40 - This change order is for adding intercoms in the jail corridors and adding code-required panic hardware at jail visitor lobby exit. (\$24,176)

Change Order No. 41 - This change order is for adding walls and a door to create a closet for the Crime Prevention Officer's storage needs and a stainless steel cabinet at the jail area to conceal plumbing pipes. (\$7,812)

Change Order No. 42 - This change order is for the installation of a concrete slab vapor barrier in areas to receive sheet vinyl and epoxy floor (jail) covering. The original plans called for the entire concrete slab to receive the treatment. This requirement was deleted during the bid time because it was not necessary to have the entire slab treated. (\$52,460)

Change Order No. 43 - This change order is for various floor covering changes, including rubber treads at stair #1 and changing the rubber base color in several locations. (\$5,995)

Change Order No. 44 - This change order includes several changes requested by the Police Department, including flag poles and a credit for the unused contract abatement allowance. (\$3,582 **CREDIT**)

Change Order No. 45 - This change order is for miscellaneous electrical changes, including added office electrical and coaxial outlets, gate controllers, north staff entry control location and added exit signs. (\$20,617)

Change Order No. 46 - This change order includes required changes to the jail cell door food pass-thru openings, epoxy paint primer, added jail steel closure pieces and exterior patio light fixtures. (\$28,944)

Following acceptance by the City Council, the City Engineer will file a Notice of Completion with the County Recorder's Office.

FUNDING: There are sufficient funds budgeted for this project for payment of the change orders listed above.

Richard C. Prima, Jr.
Public Works Director

Prepared by Gary Wiman, Construction Project Manager

RCP/GW/pmf

cc: Joel Harris, Purchasing Officer
Dennis Callahan, Fleet and Facilities Supervisor
Tiffani Fink, Transportation Manager
Gary Wiman, Construction Project Manager



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Accepting a Portion of the Improvements in Century Meadows Two, Unit No. 4, Tract No. 3272 and Adopt Resolution Amending Section 2 of Traffic Resolution 97-148 Approving the Installation of a Stop Sign at Crown Place and Lexington Drive and Yield Signs on Victoria Drive at Crown Place

MEETING DATE: February 4, 2004

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council adopt a resolution accepting a portion of the improvements in Century Meadows Two, Unit No. 4, Tract No. 3272 and adopt a resolution amending Section 2 of Traffic Resolution 97-148 approving the installation of a stop sign at Crown Place and Lexington Drive and yield signs on Victoria Drive at Crown Place.

BACKGROUND INFORMATION: Improvements in Century Meadows Two, Unit No. 4, Tract No. 3272, include street frontage improvements along Harney Lane, as well as improvements within the subdivision boundaries. The attached "Exhibit A" shows the layout of the subdivision.

The development improvements within the subdivision boundaries have been completed in substantial conformance with the requirements of the improvement agreement between the City of Lodi and FCB Building Partners I, L.P., as approved by the City Council on December 18, 2002, and as amended by the City Council on January 7, 2004. The subdivision improvements are shown on City of Lodi Drawing Nos. 002D062 through 002D074, 002D113 through 002D118 and 002D142. The interior improvements on the residential streets are substantially complete. The block wall, landscaping and street improvements along Harney Lane are not complete yet, and staff is recommending that Council accept only the interior streets of this subdivision. Sufficient access to the subdivision is provided by other streets without Harney Lane being completed. Utility poles along Harney Lane need to be relocated before the contractor can complete the Harney Lane widening work.

Staff is recommending a stop control at the intersection of Crown Place and Lexington Drive. Although the area is not fully developed and current traffic volumes are low, we anticipate this intersection will service a significant amount of traffic based on the proposed development in the area. Staff also recommends the installation of yield controls on Victoria Drive at Crown Place. Per the Department's informal guidelines, four-legged intersections will be controlled (with the exception of those intersections with a short cul-de-sac or bulb on one leg). Yield signs are typically recommended where traffic intersecting the major street is low.

A condition of the Century Meadows Two, Unit No. 4 improvement agreement required that the Harney Lane Sanitary Sewer Lift Station be accepted by the City and that property owners in the lift

APPROVED: _____
H. Dixon Flynn, City Manager

station service area pay their proportionate share of the costs for the lift station, force main, and trunk line. At its November 19, 2003, meeting Council accepted a portion of the lift station improvements to accommodate the new residents in the lift station tributary area. Since the lift station project is not totally complete, the Century Meadows Two, Unit No. 4 developer is paying an estimated cost for his share of the lift station improvements. The actual fee will be determined by the Council after the lift station contractor has completed all of his work.

The streets to be accepted are as follows:

<u>STREETS</u>	<u>LENGTH IN MILES</u>
Crown Place	0.13
Lexington Drive	0.12
Meridian Drive	0.05
Millbrook Drive	0.13
Medallion Way	0.02
Muirfield Drive	0.07
Monument Drive	0.02
Richmond Lane	0.05
Victoria Drive	<u>0.06</u>
 TOTAL NEW MILES OF CITY STREETS	 0.65

The subdivision improvements also include the installation of street improvements along the future Century Meadows Park site frontages on Lexington Drive and Millbrook Drive. Under the terms of the agreement for acquisition of the future park site approved by the City Council on December 18, 2002, the City has two (2) years after the completion of all public improvements to acquire the park site. Staff recently initiated discussions with the developer regarding the park site purchase. The park site purchase agreement that results from these efforts will be brought to the City Council for approval at a later date. The developer will be reimbursed for the park site frontage improvements in conformance with LMC §15.44 and §16.40 as part of the park site purchase agreement.

FUNDING:	IMF – Local Street Facilities (MTSI014)	\$17,000
	IMF – Water Facilities (MWSI023)	\$ 6,000
	IMF – Park and Recreation Facilities (MPR059)	\$40,000

Funding Available:

Vicky McAthie, Finance Director

Richard C. Prima, Jr.
Public Works Director

Prepared by Wes Fujitani, Senior Civil Engineer
RCP/WKF/pmf

Attachment

cc: Interim City Attorney
Street Superintendent, w/map
Senior Civil Engineer – Development Services
Senior Traffic Engineer

Chief Building Inspector
Senior Engineering Technician - Design
Developer/Owner
Baumbach and Piazza

RESOLUTION NO. 2004-_____

A RESOLUTION OF THE LODI CITY COUNCIL ACCEPTING
A PORTION OF THE DEVELOPMENT IMPROVEMENTS
INCLUDED IN THE IMPROVEMENT AGREEMENT FOR
CENTURY MEADOWS TWO, UNIT NO. 4, TRACT NO. 3272,

=====

The City Council of the City of Lodi finds:

1. That most requirements of the Improvement Agreement between the City of Lodi and FCB Building Partners I, LP., for the improvements in Century Meadows Two, Unit No. 4, Tract No. 3272 have been substantially complied with. The improvements are shown on Drawing Nos. 002D062 through 002D074, 002D113 through 002D118, and 002D142 on file in the Public Works Department and as specifically set forth in the plans and specifications approved by the City Council on December 18, 2002, and as amended by the City Council on January 7, 2004; and
2. The interior improvements on the residential streets are substantially complete; and
3. That the block wall, landscaping and street improvements along Harney Lane are not complete at this time, and therefore the City Council accepts only the interior streets of this subdivision; and
4. The streets to be accepted are as follows:

<u>Streets</u>	<u>Length in Miles</u>
Crown Place	0.13
Lexington Drive	0.12
Meridian Drive	0.05
Millbrook Drive	0.13
Medallion Way	0.02
Muirfield Drive	0.07
Monument Drive	0.02
Richmond Lane	0.05
Victoria Drive	0.06
Total New Miles of City Streets	0.65

Dated: February 4, 2004

=====

I hereby certify that Resolution No. 2004-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held February 4, 2004, by the following vote:

AYES: COUNCIL MEMBERS –
NOES: COUNCIL MEMBERS –
ABSENT: COUNCIL MEMBERS –
ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2004-_____

RESOLUTION NO. 2004-_____

A RESOLUTION OF THE LODI CITY COUNCIL AMENDING
TRAFFIC RESOLUTION NO. 97-148 BY APPROVING
TRAFFIC CONTROL MODIFICATIONS

WHEREAS, staff recommends amending Section 2 of Traffic Resolution No. 97-148, approving the installation of stop and yield signs in the Century Meadows Two, Unit No. 4 Subdivision; and

WHEREAS, the recommendations are as follows:

Crown Place and Lexington Drive - Stop Control

Victoria Drive at Crown Place - Yield Controls

NOW, THEREFORE, BE IT RESOLVED, that the Lodi City Council does hereby approve amending Section 2 of Traffic Resolution No. 97-148 approving the changes listed above.

Dated: February 4, 2004

I hereby certify that Resolution No. 2004-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held February 4, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution approving the application to apply for re-certification grant funds to operate the Lodi LOOK after school program at Washington Elementary School under the After School Education and Safety (ASES) Program through the California Department of Education

MEETING DATE: February 4, 2004

PREPARED BY: Parks and Recreation Director

RECOMMENDED ACTION: That the City Council adopt the attached resolution authorizing staff to apply for grant funding to operate an after school program at Washington Elementary School.

BACKGROUND INFORMATION: The Parks and Recreation Department has operated an after school program at Washington Elementary School under grant funding since May 2002. The original funding period expires June 30, 2004. In order to secure additional funding for an additional three year period (July 2004 – June 2007), the City must submit a grant application requesting the re-certification of the program.

This grant will provide a three-hour after school program for 40 children. Children receive instructional time as well as homework assistance and recreational opportunities. This grant requires a 50% match of in-kind services through collaborative efforts of the community. In-kind contributions are obtained through memorandums of understanding with the Lodi Parks and Recreation Department, Lodi Police Department, Lodi Library, Public Works, Lodi Unified School District, General Mills, Lodi Kiwanis Club, Community Partnerships of San Joaquin and Department of Agriculture Child Care Food Program.

FUNDING: The City will be reimbursed \$5.00 per child per day of attendance up to \$48,800 per year (\$146,400 three year total) from the California Department of Education. This program is 100% funded through grant monies.

Vicky McAthie, Finance Director

Tony Goehring
Parks and Recreation Director

TG/SB/RS:tl

cc: City Attorney

APPROVED: _____
H. Dixon Flynn, City Manager

RESOLUTION NO. 2004-_____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE CITY
MANAGER TO SUBMIT AN APPLICATION FOR RECERTIFICATION
GRANT FUNDS TO OPERATE THE LODI LOOK AFTER SCHOOL
PROGRAM AT WASHINGTON ELEMENTARY SCHOOL UNDER THE
AFTER SCHOOL EDUCATION AND SAFETY (ASES) PROGRAM
THROUGH THE CALIFORNIA DEPARTMENT OF EDUCATION

=====

NOW, THEREFORE, BE IT RESOLVED, that the Lodi City Council does hereby
authorize the City Manager to submit an application for recertification grant funds to
operate the Lodi LOOK After School Program at Washington Elementary School under
the After School Education and Safety (ASES) Program through the California
Department of Education.

Dated: February 4, 2004

=====

I hereby certify that Resolution No. 2004-_____ was passed and adopted by the
Lodi City Council in a regular meeting held February 4, 2004 by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2004-_____

Comments by the public on non-agenda items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Post For Expiring Terms On The East Side Improvement Committee
MEETING DATE: February 4, 2004
PREPARED BY: City Clerk

RECOMMENDED ACTION: That Council, by motion action, direct the City Clerk to post for the expiring terms on the East Side Improvement Committee.

BACKGROUND INFORMATION: Several terms are due to expire shortly on the East Side Improvement Committee. It is, therefore, recommended that the City Council direct the City Clerk to post for the expiring terms below.

East Side Improvement Committee

Allan Levy	Term to expire March 1, 2004
Joseph Spinelli	Term to expire March 1, 2004
Sunil L. Yadav	Term to expire March 1, 2004

State statute requires that the City Clerk post for vacancies to allow citizens interested in serving to submit an application. The City Council is requested to direct the City Clerk to make the necessary postings.

FUNDING: None required.

Susan J. Blackston
City Clerk

SJB/JMP

APPROVED: _____
H. Dixon Flynn, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Appointment To The Senior Citizens Commission

MEETING DATE: February 4, 2004

PREPARED BY: City Clerk

RECOMMENDED ACTION: That Council, by motion action, concur with the Mayor's recommended appointment to the Senior Citizens Commission.

BACKGROUND INFORMATION: As indicated below, the City Clerk's office was directed to post for the expiring term on the Senior Citizens Commission. It is recommended that the City Council concur with the following appointment.

Senior Citizens Commission

Terri Whitmire Term to expire December 31, 2007 *posting of expired term ordered 12/3/03*

NOTE: Eight applicants (one new application, one reappointment, and six applications on file); notice published 11/8/03 in the Lodi News-Sentinel; application deadline 12/8/03.

FUNDING: None required.

Susan J. Blackston
City Clerk

SJB/JMP

APPROVED: _____
H. Dixon Flynn, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Discussion and Action Regarding Phase II Budget Adjustments

MEETING DATE: February 4, 2004

PREPARED BY: Deputy City Manager

RECOMMENDED ACTION: That Council discuss and approve the proposed Phase II budget adjustments.

BACKGROUND INFORMATION: The City of Lodi depends on certain revenues from the State of California as part of the City's General Fund operating budget. As Council is aware, cities and counties are currently at the mercy of the State regarding the proposed property tax take-away (ERAF shift) and the vehicle license fee gap. Because of the budget uncertainties and the projected State budget turmoil, the City Manager has instituted a progressive budget reduction strategy comprised of three phases.

City Council adopted Phase I budget reduction recommendations during the December 17, 2003 Council meeting. The adopted recommendations included a total of \$224,350 of budget cuts over an 18 month period. As pointed out by the City Manager during the December 17th meeting, he would return with additional options as Phases II & III of his budget strategy. The City Manager will review his recommended Phase II adjustments for Council approval during the February 14, 2004 Council meeting. Attached is an updated list describing the General Fund "Challenge" and the list of Phase II recommendations.

Additionally, as we proceed through the budget preparation process the City's recently approved public survey process will dovetail with final recommendations in April and May 2004.

FUNDING: Not Applicable

Janet S. Keeter
Deputy City Manager

JK/sl

Attachments

APPROVED: _____
H. Dixon Flynn, City Manager

General Fund -- The Challenge

	6 mo 2004	2004-05	Grand Total	Value of GF positions
Adjustments to amounts budgeted				
PERS increase \$	51,946	\$ 189,940	\$ 241,886	
Medical rate increase	(59,378)	(352,700)	(412,078)	
General Liability	100,000	-	100,000	
Additional VTO	(92,840)		(92,840)	
Golden Handshake	200,000	400,000	600,000	
Budget survey - GF share of \$30,000	6,000		6,000	
Animal shelter part time staff	9,000	18,600	27,600	
VLF backfill loan to State	555,000		555,000	
Unrestricted Capital	(1,116,000)	(1,116,000)	(2,232,000)	
Hire Freeze additional	(506,684)		(506,684)	
Fund Balance Adjustment	894,516	894,516	1,789,032	
sub total	<u>41,560</u>	<u>34,356</u>	<u>75,916</u>	
Placeholder - Possible Impact -(VLF & Prop Tax)		<u>1,000,000</u>	<u>1,000,000</u>	
\$	<u>41,560</u>	\$ <u>1,034,356</u>	\$ <u>1,075,916</u>	<u>16.6</u>
Adjustments				
Phase I adopted 12/17/03	(134,950)	(89,400)	(224,350)	(3.45)
Phase II to Council 2/04/04	5,973	(632,374)	(626,401)	(9.64)
	<u>(128,977)</u>	<u>(721,774)</u>	<u>(850,751)</u>	<u>(13.09)</u>
Phase III - need at least this amount if impacted by VLF		(225,165)	(225,165)	(3.46)

General Fund Adjustments Options

	6 mo 2004	2004-05	Total 18 mo	Value of GF positions
Phase II				
PERS increase	51,946	189,940	241,886	3.72
Medical rate increase	(59,378)	(352,700)	(412,078)	(6.34)
General Liability	100,000	-	100,000	1.54
Additional VTO	(92,840)		(92,840)	(1.43)
Golden Handshake	200,000	400,000	600,000	9.23
Budget survey - GF share of \$30,000	6,000		6,000	0.09
Animal shelter part time staff	9,000	18,600	27,600	0.42
Unrestricted Capital	(1,116,000)	(1,116,000)	(2,232,000)	(34.34)
VLF backfill "loan" to be repaid by State in 2006/07	555,000		555,000	8.54
Hire Freeze additional	(506,684)		(506,684)	(7.80)
Fund Balance Adjustment	894,516	894,516	1,789,032	27.52
Total of Phase II needed budget Adjustments	41,560	34,356	75,916	1

Additional Budget Adjustment Options

Administration				
Reduce supplies		(500)	(500)	(0.01)
Reduce business expense		(1,000)	(1,000)	(0.02)
City Clerk				
Reduce business expense		(3,000)	(3,000)	(0.05)
Reduce Conference expense		(2,000)	(2,000)	(0.03)
Professional services reduction	(8,000)		(8,000)	(0.12)
Community Center				
Reduce repairs to buildings		(3,000)	(3,000)	(0.05)
Reduce sublet service contracts		(3,600)	(3,600)	(0.06)
Reduce postage account		(5,500)	(5,500)	(0.08)
Reduce office supplies		(1,000)	(1,000)	(0.02)
Reduce professional services - Performing Art Center		(2,000)	(2,000)	(0.03)
Community Development				
Reduce conference expense	(10,000)	(10,000)	(20,000)	(0.31)
Reduce Training expense	(500)	(500)	(1,000)	(0.02)
Finance				
Suspend Administration function on Parking Citation program		(9,500)	(9,500)	(0.15)
Suspend JDE training		(15,000)	(15,000)	(0.23)
Suspend executive report publication		(5,000)	(5,000)	(0.08)
Use remanufactured toner cartridges rather than new		(500)	(500)	(0.01)

Fire

General Fund Adjustments Options

	6 mo 2004	2004-05	Total 18 mo	Value of GF positions
Reduce Overtime		(35,000)	(35,000)	(0.54)
Human Resources				
Suspend assessment centers for promotional exams		(10,000)	(10,000)	(0.15)
Suspend annual health fair/safety awards/float fest		(8,000)	(8,000)	(0.12)
Suspend printing of newsletter		(1,900)	(1,900)	(0.03)
Library				
Internet access		(1,000)	(1,000)	(0.02)
Parks				
Don't build donated indoor soccer project		(143,960)	(143,960)	(2.21)
Take public restrooms out of service if no sporting program (1 yr)		(3,000)	(3,000)	(0.05)
Suspend concession services at Grape Pavilion (1 yr)		(2,000)	(2,000)	(0.03)
Remove pay phone in front of Discovery Center		(600)	(600)	(0.01)
Edge monthly (1 yr)		(500)	(500)	(0.01)
Contract tree services on emergency levels only (1 yr)		(5,000)	(5,000)	(0.08)
Discontinue manual weed control (1 yr)		(2,000)	(2,000)	(0.03)
Operate in house food concessions/vending machines		(5,000)	(5,000)	(0.08)
Defer purchase of any new non-motorized equipment (1 yr)		(2,000)	(2,000)	(0.03)
Defer hiring of equipment mechanic intern (1 Yr)		(4,500)	(4,500)	(0.07)
Recreation				
Reduce supplies		(6,000)	(6,000)	(0.09)
Reduce Commission supplies		(3,000)	(3,000)	(0.05)
Police				
Supplies reduction		(15,000)	(15,000)	(0.23)
Overtime reduction		(21,000)	(21,000)	(0.32)
Public Works				
Reduce frequency of maintenance on medians to monthly (1 yr)		(25,000)	(25,000)	(0.38)
Reduce janitorial service to 3 times per week		(26,000)	(26,000)	(0.40)
Budget supplies Reduction		(151,461)	(151,461)	(2.33)
Travel Reduction	(13,831)	(107,157)	(120,988)	(1.86)
Business expenditure reduction	(3,256)	(25,552)	(28,808)	(0.44)
Audit property tax receipts				
Recycle more				
Centralize Printing				
Total Additional Budget Adjustment Options	(35,587)	(666,730)	(702,317)	(11)
Total Phase II adjustments	5,973	(632,374)	(626,401)	(9.6)



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Updates from Mayor Hansen regarding the following issues: Barger & Wolen audit of Envision Law Group's billings; status of recruitment process for new City Attorney; progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation and legal proceedings relative to the Environmental Abatement Program litigation

MEETING DATE: February 4, 2004

PREPARED BY: Deputy City Manager

RECOMMENDED ACTION: That the City Council receive an update regarding the following issues: Barger & Wolen audit of Envision Law Group's billings; status of recruitment process for new City Attorney; progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation and legal proceedings relative to the Environmental Abatement Program litigation.

BACKGROUND INFORMATION: At the request of Mayor Hansen, this item is placed on the agenda to allow for a verbal update regarding the status of the above issues.

FUNDING: Not applicable

Janet S. Keeter
Deputy City Manager

JSK/sl

APPROVED: _____
H. Dixon Flynn, City Manager

The draft resolution was not available prior to publication and will be provided as a "blue sheet" at the meeting.

AGENDA ITEM I-03



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Appropriating Funds to the City Attorney Operating Account for Professional Services Rendered by Kronick Moskowitz Tiedemann & Girard for Serving in the Capacity of Deputy City Attorney (\$48,000)

MEETING DATE: February 4, 2004

PREPARED BY: Janet L. Hamilton, Management Analyst

RECOMMENDED ACTION: To adopt a resolution appropriating funds to the City Attorney Operating Account for professional services rendered by Kronick Moskowitz Tiedeman & Girard for serving in the capacity of Deputy City Attorney (\$48,000).

BACKGROUND INFORMATION: By motion at the January 21, 2004 meeting, the City Council authorized that a contract be entered into between the City of Lodi and the law firm of Kronick Moskowitz Tiedemann & Girard to serve in the capacity of Deputy City Attorney to the Interim City Attorney until such time as the City selects special counsel to resume the Environmental Abatement Program litigation. The funding source for services regarding the Environmental Abatement Program will be the Water TCE/PCE account however funds will need to be appropriated to the City Attorney's operating account to cover support on unrelated issues. \$48,000 constitutes approximately six months wages for the Deputy City Attorney position.

This action is necessary as the City Attorney's budget cannot absorb these expenditures due to the final compensation severance package for the prior City Attorney.

FUNDING: Contingency

Vicky McAthie, Finance Director

D. Stephen Schwabauer
Interim City Attorney

DSS/jlh

cc: Richard Prima, Public Works Director

APPROVED: _____
H. Dixon Flynn, City Manager



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Discussion and Direction Regarding Adjusting Water and Wastewater Rates

MEETING DATE: February 4, 2004

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council direct staff on the issues described below in preparation for adjusting water and wastewater rates.

BACKGROUND INFORMATION: Water and wastewater rates were last adjusted in 2001 to fund a major infrastructure replacement program. Rate increases were implemented in two steps. Three significant expenses were not included at that time, which need to be addressed. Staff needs direction on these items in order to calculate the necessary rate adjustments. Action on wastewater rates is needed in the next month or so in order to complete the financing for the Phase 2 project which is underway. Action on water rates should also take place in a timely manner.

Water

The first major item is in the water utility - the 2003 water purchase contract with the Woodbridge Irrigation District. This contract, which costs \$1.2 million per year, began in the second quarter of this fiscal year. At the time of adoption, staff indicated a rate increase would be necessary and planned to incorporate this action with discussion on how to utilize this water. However, due to various workload and other delays, this discussion is not yet ready to occur. Yet, the financial pressure on the water utility from this contract and the PCE/TCE issue is such that a rate increase should not be delayed.

Annual revenue from water sales is approximately \$5.68 million. The annual cost increase of \$1.2 million represents an additional gross revenue need of 24%. An option of lowering the General Fund in-lieu tax transfer from 12% to 10% would reduce the increase to 21% and keep the General Fund revenue essentially at current levels. This would be consistent with past practice and allows the amount to automatically adjust with growth but does not unduly add to the general fund when rates are increased for some major program. This option, along with other items presented below, is summarized in Table 1. Another way to accomplish this would be to set a base figure and provide some growth factor independent of the rate structure.

Wastewater

The State-mandated White Slough Water Pollution Control Facility improvements are being funded through certificates of participation which will increase annual debt service requirements by approximately \$2 million. In addition, operating costs will increase with the additional improvements.

Staff and our consultants are developing a cost and revenue model that brings these factors together and presented a preliminary version to the City Council in October 2003. The model is still being refined as we proceed on the 2004 financing, including analysis of required revenue/expense coverage ratios. The two outstanding debts have different criteria on how coverage and "additional bonds test" are calculated and all must be satisfied in order to issue the Phase 2 project COP's. Our financial consultants are recommending a healthy coverage ratio rather than minimum levels in order to obtain the best possible interest rates. These

APPROVED: _____
H. Dixon Flynn, City Manager

requirements, along with unavailability of the low-interest State Revolving Loan fund, are also driving up the recommended rate increases.

The rate increase shown in Table 1 is for April 2004 with another in 2005 assuming we can meet the required additional bonds test; if not, we will need one larger increase this year. A third increase would occur in 2006, but staff is recommending this not be adopted at this time as the actual amount will depend on the Phase 3 project final costs and financing. Staff will bring this item back to the Council at the appropriate time, along with other recommendations concerning rate structure, as discussed in the October 2003 shirtsleeve session.

An option similar to water concerning the in-lieu transfer exists for wastewater and is also summarized in Table 1. A similar decrease in the following year's transfer would occur with future rate increases.

In addition to wastewater service rates, the White Slough Water Pollution Control Facility improvements also include capacity for future growth. Consistent with past practice, a portion of the costs have been allocated to "growth" and as described in the October 2003 shirtsleeve session, staff proposes to combine the "capacity" fee, currently charged with building permits, into the wastewater impact mitigation fee (IMF) program. The current capacity fee for a 2-bedroom home is \$2,099. The current wastewater IMF is \$544/acre or \$108.80 assuming five homes per acre. The new combined fee, including the White Slough project increase, is approximately \$3,600 per 2-bedroom home. Making these modifications will require changes to the City Code, which will be presented at later meeting.

Water/Wastewater – PCE/TCE

The cost of PCE/TCE litigation and investigative work has affected the water fund and could affect the wastewater fund. While nearly all the costs have been covered by water fund balance and the Lehman financing, these sources have been exhausted. We still have ongoing costs, and rough estimates for technical work needed to meet State and Federal requirements in designing a complete cleanup program are in the \$7 million and up range. While we anticipate that much of this cost will eventually be recovered, we still need funding to make progress until that recovery occurs.

As mentioned above, the water fund has been the source for City funding on this issue since the water supply is at risk. However, given the alleged potential for City liability is partly due to the wastewater system, it would be reasonable to share this cost between the two enterprises. Since neither fund has substantial cash balance, staff feels it would be prudent to include some allowance in the rates for these expenses and is suggesting for discussion purposes 10% in both water and wastewater which would provide approximately \$1 million annually.

Low-Income Discount Program

The City's current discount for qualified low-income water and wastewater customers is 10%. These are customers who are eligible for certain Social Security payments. Under a separate Council item, staff is recommending that the eligibility criteria be broadened and made consistent with other electric utility programs. However, that action does not include establishing the actual discount, which is the subject of this item. While this is not a significant revenue issue and thus is not included as one of the three significant items driving the recommended rate adjustment it should be included in our calculations. Staff feels it is appropriate to consider establishing a meaningful discount at the same time rates are adjusted.

A 20% discount on both water and wastewater would largely negate the effects of the proposed rate increases. The revenue impact at this percentage with the expanded eligibility criteria is estimated at roughly \$95,000 annually and should be included in the rate model. Assuming the recommended ordinance is adopted, the discount rate would be set by resolution. Staff proposes to also present this at the meeting when rate adjustments are considered.

Summary

The following table summarizes the adjustments discussed with two options – one under current policies, the other with the transfer reduced as noted above. The intent of the summary is to provide an approximation of the rates with the adjustments described. The new rates are not final numbers and the adjustments would apply to the total bill and include all customers including septic haulers. Note that the reduced in-lieu percentages changes depending on the magnitude of the rate increase in order to keep the transfer at current levels. With Option 1, the combined bill for water and wastewater for a 2-bedroom home would increase by approximately \$10.13 per month, and under Option 2, the total increase is \$8.82 per month.

Table 1 – Summary of Water/Wastewater Rate Adjustments – July 2004

	Option 1 – Current Policy (12% in-lieu)			Option 2 – reduced in-lieu (in-lieu as noted)		
	% Increase	2-Br rate \$/mo. increase new total		% Increase (new in-lieu)	2-Br rate \$/mo. increase new total	
Water	Current Rate: \$16.22					
Water – WID purchase	24%	\$3.89	\$20.11	21.3% (10%)	\$3.45	\$19.67
Water – PCE/TCE	10%	\$1.62	\$17.84	8.8% (11%)	\$1.43	\$17.65
Water Combined	34.0%	\$5.51	\$21.73	29.6% (9%)	\$4.80	\$21.02
Wastewater	Current Rate: \$12.97					
Wastewater – Improvements	25%	\$3.24	\$16.21	22% (10%)	\$2.85	\$15.82
Wastewater – PCC/TCE	10.6%	\$1.37	\$14.34	9.4% (11%)	\$1.22	\$14.19
Wastewater Combined	35.6%	\$4.62	\$17.59	31.0% (9%)	\$4.02	\$16.99

Direction

Staff is requesting direction on the following items so as to reduce the number of variables that would be considered in calculating a recommended rate adjustment:

- Should the in-lieu transfer be maintained per policy or reduced as described?
- Should we include an amount for the PCE/TCE issue, and if so, how much?
- What should the low-income discount be?

FUNDING: Not applicable.

Richard C. Prima, Jr.
Public Works Director

RCP/pmf

cc: Vicky McAthie, Finance Director



TM

CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Introduce Ordinance Repealing LMC 13.04.130 and Adopting New Section Establishing Low Income Discounts for Water, Sewer and Refuse Services

MEETING DATE: February 4, 2004

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council adopt an ordinance repealing LMC 13.04.130 and adopting a new section establishing low income discounts for water, sewer and refuse services.

BACKGROUND INFORMATION: In discussion on water and wastewater rates, the subject of providing a meaningful discount for low income residents was brought up. Staff is recommending a change in the City's current discount program as described below.

Currently, the Lodi Municipal Code contains the following section:

13.04.130 Low income adjustments.

The rates for residential water, sewer and refuse collection service as they now exist or may hereafter be modified under this chapter, shall be reduced by ten percent (exclusive of surcharges, if any) for those residential accounts in the names of person otherwise eligible for Supplemental Security Income (SSI), or State Supplement Payments (SSP), as determined by the Social Security Administration, which shall have sole discretion in determining such eligibility. Proof of eligibility may be required by the city to qualify for the rate adjustments provided herein. (Ord. 1445 § 1, 1989)

In addition, the City has various electric and refuse programs, as summarized on Exhibit A. The refuse discounts actually are greater than 10% due to the way past rate increases were handled. Staff proposes to bring these in line with the proposed discount programs with the next refuse rate adjustments.

There are about 1,300 customers receiving electric discounts, almost 900 receiving refuse discounts and about 300 receiving water/wastewater discounts. The actual number of customers on these discount programs varies due to both different eligibility criteria and the fact that not all customers pay each of these bills. For example, a landlord might pay water and sewer and the tenant pays refuse and electric.

This recommendation is based on the fundamental concept that the City should have one set of eligibility criteria for its discount programs, although amount of the discount may vary among the utilities; and, they would be set by resolution. This will allow one administrative process for approval rather than two or three. A resolution will be prepared for adoption at the time the ordinance is adopted should the Council

APPROVED: _____
H. Dixon Flynn, City Manager

approve introduction of the ordinance. Staff will provide additional information on the discount – and obtain direction as to what percentage – as part of the presentation on rate adjustments.

The text of the proposed ordinance is as follows:

13.04.130 Low income adjustments.

The rates for residential water, sewer and refuse collection service as they now exist or may hereafter be modified under this chapter, shall be reduced as established by resolution for those residential accounts in the names of persons eligible for applicable electric service discounts as provided in this Title. Proof of eligibility may be required by the city to qualify for the rate adjustments provided herein.

FUNDING: Not applicable.

Richard C. Prima, Jr.
Public Works Director

RCP/pmf

Attachment

cc: Alan Vallow, Electric Utility Director
Vicky McAthie, Finance Director

Exhibit A

Refuse Rate Reduction Program

Residential customers may apply for a reduction in their rate due to personal economic hardship. The rate reduction is actually a set rate depending on the size of the cart. 20-gallon carts are currently at a rate of \$8.24 and the 38-gallon cart at \$10.30. The criteria for this program is proof of income that meets the following guidelines:

One person in household \$12,000/year

Each additional person add \$2,000/year

Once application is approved there is no follow-up procedure to verify continued eligibility.

SHARE Program

This program allows residential customers to apply for a discount of 20% on their monthly utility bill. The criteria for this program is proof of income that meets the following guidelines:

<u>Number of Persons in Household</u>	<u>Maximum Annual Household Income</u>
1-2	\$22,000
3	\$25,900
4	\$31,100
Each additional member	\$5,200

Once the application is approved, it is up to the applicant to notify the Finance Department within 30 days of becoming ineligible for the program.

SSI & SSP Recipient Discount Program

If a resident receives SSI or SSP, they may be eligible for a 10% discount on Water, Sewer and Refuse rates. Once the application is filled out, the Finance Department will send the form to the Social Security Administration to verify eligibility. Once approved, there is no follow-up procedure to verify continued eligibility.

Senior Fixed Income Program

This program allows for residential customers over the age of 62 with a maximum household income of \$45,000 to apply for a 5% discount on their monthly electric bill.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
AMENDING CHAPTER 13.04 "SERVICE GENERALLY" BY REPEALING
AND REENACTING SECTION 13.04.130 OF THE LODI MUNICIPAL CODE
RELATING TO LOW INCOME ADJUSTMENTS

=====

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Section 13.04.130 "Low Income Adjustments" of the Lodi Municipal Code is hereby repealed and reenacted to read as follows:

13.04.130 Low Income Adjustments.

The rates for residential water, sewer and refuse collection service as they now exist or may hereafter be modified under this chapter, shall be reduced as established by resolution for those residential accounts in the names of persons eligible for applicable electric service discounts as provided in this Title. Proof of eligibility may be required by the City to qualify for the rate adjustments provided herein.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi and shall take effect thirty days from and after its passage and approval.

Approved this ____ day of February, 2004

LARRY D. HANSEN
Mayor

Attest:

SUSAN J. BLACKSTON
City Clerk

=====

State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held February 4, 2004, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES; COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
Interim City Attorney

Comments by the City Council Members on non-agenda items